



KODIAK/ALEUTIANS  
REGIONAL ADVISORY COUNCIL  
Meeting Materials

*September 21-22, 2022  
Cold Bay*





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photo by Lisa Hutchinson-Scarborough

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**KODIAK ALEUTIANS SUBSISTENCE REGIONAL ADVISORY COUNCIL**

Community Center  
Cold Bay  
September 21-22, 2022  
Convening at 8:30 am daily

**TELECONFERENCE:** call the number: 1-877-807-6997, then when prompted enter the passcode: 73803960.

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

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

**AGENDA**

\*Asterisk identifies action item.

**1. Invocation**

**2. Call to Order** (*Chair*)

**3. Roll Call and Establish Quorum** (*Secretary*)..... 3

**4. Welcome and Introductions** (*Chair*)

**5. Review and Adopt Agenda\*** (*Chair*)..... 1

**6. Review and Approve Previous Meeting Minutes\*** (*Chair*)..... 5

**7. Reports** (*Chair*)

    Council Member Reports

    Chair’s Report

**8. Service Awards** (*Council Coordinator*)

**9. Public and Tribal Comment on Non-Agenda Items** (available each morning) (*Chair*)

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- b. Federal Subsistence Board FY2021 Annual Report Replies – summary (*Council Coordinator*)... 19
- c. Sea Otter Research- Kodiak Island (*FWS- Schuette*)

**11. New Business** (*Chair*)

- a. Agency Reports applicable information for Council consideration when addressing Federal Fishery Proposals and Fishery Closure Reviews

Agenda

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**12. Agency Reports (Chair)**

(Time limit of 15 minutes unless approved in advance)

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3. Kodiak NWR Activity Report to the Council (*Brady/Pyle*)

c. Alaska Department of Fish and Game

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d. Office of Subsistence Management (*presenter TBA*)

**13. Future Meeting Dates\* (Chair)**

- Confirm winter 2023 meeting date and location ..... 289
- Select fall 2023 meeting date and location ..... 290

**14. Closing Comments (Chair)**

**15. Adjourn (Chair)**

**To call** into the meeting, dial the toll free number: 1-877-807-6997, then when prompted enter the passcode: 73803960.

*Reasonable Accommodations*

The Federal Subsistence Board is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Lisa Hutchinson-Scarborough, (907) 310-4097, [lisa\\_hutchinson@fws.gov](mailto:lisa_hutchinson@fws.gov) by close of business on September 12, 2022.

# REGION 3

## Kodiak/Aleutians Regional Advisory Council

| Seat | Year Appointed<br><i>Term Expires</i> | Member Name   | Represents  |
|------|---------------------------------------|---|-------------|
| 1    |                                       | VACANT  |             |
| 2    | 2001<br><b>2022</b>                   | <b>Patrick Brian Holmes</b><br>Kodiak                     | Subsistence |
| 3    | 2006, 2021<br><b>2022</b>             | <b>Richard Rudolph Koso</b><br>Adak                       | Subsistence |
| 4    | 2004<br><b>2022</b>                   | <b>Samuel Isaac Rohrer</b><br>Kodiak                      | Comm/Sport  |
| 5    | 2017<br><b>2023</b>                   | <b>Christopher Lee Price</b> <b>Secretary</b><br>Unalaska | Subsistence |
| 6    | 2014<br><b>2023</b>                   | <b>Coral Ann Chernoff</b><br>Kodiak                       | Subsistence |
| 7    | 2014<br><b>2023</b>                   | <b>Rebecca Louise Skinner</b> <b>Vice Chair</b><br>Kodiak | Subsistence |
| 8    | 1997<br><b>2024</b>                   | <b>Della Trumble</b> <b>Chair</b><br>King Cove            | Subsistence |
| 9    | 2018<br><b>2024</b>                   | <b>Natasha M. Hayden</b><br>Kodiak                        | Subsistence |
| 10   |                                       | VACANT  |             |

## KODIAK/ALEUTIANS SUBSISTENCE REGIONAL ADVISORY COUNCIL

### Meeting Minutes

Teleconference

February 22-23, 2022

#### Invocation

Pat Holmes gave an invocation.

#### Call to Order, Roll Call and Quorum Establishment

The meeting was called to order Tuesday, February 22, 2022, at 8:41 a.m. Council members Pat Holmes, Rick Koso, Sam Rohrer, Coral Chernoff, and Natasha Hayden were present via phone. Della Trumble was not present at the time of roll call, but was present shortly after. The Council has two vacant seats. A quorum was established with seven of eight seated Council members participating by phone.

#### Attendees:

##### *Via teleconference*

- Amy Peterson, Community Affairs Liaison for Koniag
- Fish and Wildlife Service (USFWS): Mike Brady and Bill Pyle (Kodiak National Wildlife Refuge NWR), Allison Williamson and Leticia Melendez (Izembek NWR), Frank Harris (Kenai Fish and Wildlife Conservation Office), and John Gerken and Jill Klein (Anchorage)
- Alaska Department of Fish and Game (ADF&G): Kelly Krueger, Mark Witteveen, Tyler Lawson, and Lisa Fox (Kodiak), and Mark Burch (Palmer)
- Office of Subsistence Management (OSM): Katya Wessels, Leigh Honig, Orville Lind, Jarred Stone, Dr. Jason Roberts, Robbin La Vine, Kendra Holman, George Pappas, and Dr. Brent Vickers (Anchorage)
- Bureau of Indian Affairs (BIA): Pat Petrivelli (Anchorage)

#### Review and Adopt Agenda

Motion by Mr. Rohrer, seconded by Mr. Koso, to adopt the agenda as read with the following changes:

- Old Business add:
  - 10B. Council Application and Nomination Open Season Update.
- New Business add:
  - 11C. Fishery Closure Review Discussion.
  - 11D. Call for Nonrural Determination Proposals.
- Agency Reports add:
  - 12. Qawalangin Tribe update on McLees Lake Project.
  - C3. Kodiak National Wildlife Refuge Proposed Administrative and Regulatory Changes to the Kodiak Fishing Regulations for 2023-2025.
  - 12D. Update on the Alaska Peninsula/Aleutian Islands Salmon Fisheries.



The motion passed on a unanimous vote.

### **Election of Officers**

Ms. Della Trumble was elected the Council's Chair.

Ms. Rebecca Skinner was elected the Council's Vice Chair.

Mr. Chris Price was elected the Council's Secretary.

### **Review and Approve Previous Meeting Minutes**

Motion by Ms. Skinner, seconded by Mr. Koso, to approve the fall 2021 meeting minutes with the following modifications and comments the Council would like documented. Mr. Holmes expressed a need for more information to be included in the Meeting Minutes. He felt there were many important discussions the Council had that were not documented in the Meeting Minutes. He requested in the future, more attention be made to the meeting details and the review of the document as there were grammatical errors, specifically in the Fisheries Resource Monitoring Program update.

The motion passed on a unanimous vote.

### **Council Member and Chair Reports**

*Mr. Patrick Holmes of Kodiak* (representing subsistence user group) reported that he was unable to get out for silver (Coho) Salmon this past season and a former commercial fisherman and former schoolteacher Nate and his wife shared 20 silver Salmon. He was able to share two-thirds of that with other elders. He also wanted to express appreciation to the Sun'aq Tribe for implementing a subsistence home pack program from their fish processing plant for elders in the community. Only a few folks harvested deer, and it appears that the deer population still needs time to recover. The deer he did see were in good body condition. Mr. Holmes is hopeful that the Council will be able to replace Council member Melissa Berns with a representative from Old Harbor, False Pass, or the Pribilofs.

*Mr. Richard Koso of Adak* (representing subsistence user group) reported that the fish plant has not been operational the past couple of years. The Adak Community Corporation, of which he is a member, has been working on getting the fish plant reopened, at least on the commercial side. The halibut and salmon subsistence fishery were doing well, and folks were able to harvest if they were able to navigate the logistics and cost of getting to those fishing areas. The ptarmigan population at Adak has severely declined according to Lisa Spittle from Adak. Little is known about why they have declined so rapidly. Local guides had reduced their daily bag limits in half on their own to conserve the population. The call for proposals to address the issue won't be until 2023. In March, he will be meeting with Maritime NWR Manager Steve Delehanty, the Aleut Corporation Board, and other entities to discuss caribou on Adak. Caribou is an important food source in Adak as the cost of getting food to Adak is cost prohibitive.

*Samuel Rohrer of Kodiak* (representing commercial and sport user group) reported that there were still reduced deer numbers in Kodiak, especially on the west side after a series of bad winters. This winter he saw a few more deer than he had seen in previous years. He also heard from another resident on the west side of Kodiak that the snow had started melting and was finding some winter kill, but not a lot, so he's

hopeful the population is rebounding. He has heard concerns and frustrations from the community that there had been an increase in charter fleets that target deer on beaches late in the season on the south, east, and west sides of the island.

*Christopher Price of Unalaska* (representing subsistence user group) reported the Unalaska Fish and Game Advisory Council had not been able to hold its meetings, and this has had a negative effect on community input. Although the virtual meetings have been difficult, he appreciates that the Council had been able to maintain their meeting schedule. The Unalaska Native Fishermen's Association (UNFA), which represents commercial, subsistence, and sportfishing interests recently elected a new president, Nick Tutiakoff. Nick's father was on the Council in the past. Nick is the next generation moving into the leadership position with UNFA. Mr. Price expressed his gratitude and appreciation for the Council's work on the McLees Lake Project. He was excited to announce that the Qawalangin Tribe was moving into year three of the grant. The Tribe was starting to transition into the leadership role and was doing their own staffing, procurement, and management of weir installation. There were still logistical hurdles to navigate that include working with charter boat captains that have larger vessels to assist in the transportation of materials needed to set up and remove the fish camp and weir. The use of larger vessels was an asset and was a safer alternative than using small skiffs. There was also an inquiry with charter boat captains to see if they could accommodate the subsistence fishing practice of using smaller skiffs to set nets. However, under the current regulatory framework this was not an allowable activity. The sea otter population in Unalaska was still high and they had been working with local subsistence users to address the situation. The local economy had been negatively affected due to the season closure for Red King Crab and harvest reductions in the commercial Opilio Crab fishery. The subsistence halibut season last summer was successful, which was a positive indicator for one of their most important food source. Management techniques that had been put into place seem to be working well, which allowed subsistence fishermen to harvest halibut in their local bay rather than having to travel out in the Bering Sea in small boats.

*Coral Chernoff of Kodiak* (representing subsistence user group) reported an increase in waterfowl sightings including emperor geese, scoter, scaup, and goldeneyes, which was refreshing as they had not been seen in a while. The eagle population was also healthy. The salmon arrived late: salmon could be found even in December. There were quite a few salmon in the Buskin River, which provided good bear viewing opportunities. According to reports from the south side of the island, the goat population appeared to be healthy, deer kills had not been found, and the crab fishing had also been good. She reported that everything appeared to be stable and hopes that the winter season remained mild.

*Rebecca Skinner of Kodiak* (representing commercial and sport user group) reported what trends she observed throughout the state in regard to changing ocean conditions and the effects on the marine resources. She reported that there were significant reductions in commercial fishing opportunities for Red King and Opilio Crab fishery in the Bering Sea. Reductions were mostly likely due to ocean conditions, although it was still unclear what exactly caused the crash. Chinook and Chum salmon runs were also greatly reduced in Northwest Alaska, mostly likely due to ocean conditions as well. The Buskin River also had unexpectedly low subsistence runs for Sockeye Salmon. However, Pacific Cod in the Gulf of

Alaska seemed to be rebounding from the population decline that occurred in 2018. The International Pacific Halibut Commission set the halibut limits slightly higher indicating that some strong year classes had been recruited into the population.

*Natasha Hayden of Kodiak* (representing subsistence user group) reported that she also noticed an increase in waterfowl, especially in Shuyak, Afognak, and on the southern coast of Afognak. She was able to go deer hunting in November. Not many deer were spotted, but the ones that were found looked healthy. Unusually cold weather occurred in October and November. She was hopeful they are through the worst of the cold weather. Ms. Hayden reported there was a huge increase in hunting traffic from the mainland traveling via the marine highway system into Port Lions and Ouzinkie. Folks were able to ride ATVs and side-by-sides onto the ferry and into Port Lions and Ouzinkie. The revolving door of traffic and the resulting increase in deer harvest is of major concern for residents in these communities that greatly rely on local harvest of food for their food security as there are no grocery stores available. Ms. Hayden echoed Ms. Skinner's concern on the collapse of fisheries in Western Alaska and changing ocean conditions. She also spoke about bycatch affecting marine resources. She reported that the Governor had recently established a task force on bycatch. The task force will make recommendations to the Governor on potential actions or strategies related to bycatch. She noted that there are no existing limits on Chum Salmon bycatch in the Bering Sea, and this was concerning considering the Chum Salmon collapse that occurred on the Yukon River. Ms. Hayden was able to participate in a panel at the Yukon River Drainage Fisheries Association that address the salmon collapse along the Yukon River. Residents from the Bering Sea all the way to British Columbia called in. There was a lot of anxiety surrounding the summer forecast. She was hopeful that the Buskin River will see improvements in the Sockeye Salmon return, which would help to alleviate pressure on Afognak, Port Lions, and Ouzinkie. Ms. Hayden also reported New Haven, in California, closed permanently. The company was a prominent and reliable furrier that specialized in sea mammal hide processing and tanning. The region did not have any local tanners and the prospect of other tanneries is unknown. Mr. Holmes asked if the Tlingit Tribe in Sitka could process hides. Ms. Hayden said that could be an option; however, it was more cost-effective to ship to California than to Southeast.

*Della Trumble of King Cove* (representing subsistence user group) expressed appreciation of former Council member Melissa Berns' involvement with the Council. Ms. Berns contributed immensely to the Council and was involved in many amazing projects; she will be greatly missed. Ms. Trumble also wanted to acknowledge and express appreciation to previous Council member Al Cratty who had passed away. He cared greatly for his community and made impactful contributions to the community of Old Harbor and Kodiak. It was a big loss for the community, and he will be missed. Mr. Holmes and Ms. Trumble provided anecdotes about Mr. Cratty, expressing that his sense of humor and passion will be remembered. Ms. Trumble reported that the winter had started out cold and with a lot of rain. There were some crab fishing opportunities. The cod season was cut short, and she was getting ready for the next season. There had been a lot of ptarmigan harvested. She noted that silver salmon were reported late into December. Bear activity was still occurring late into the winter, which she attributed to hunger more than anything else. Folks were harvesting clams, and she noted that sea otter population were not

over abundance. A few people earlier in the year were able to harvest some caribou, but due to many storms many haven't been able to get out.

## **Old Business**

### ***Council Charter Update***

Ms. Katya Wessels presented the Council with the renewed charter, which gets updated every two years and was last renewed in 2021. Nine out of ten Councils requested to add a carryover term clause to all Council charters in Section 12, Membership and Designation, to avoid temporary vacancies on the Councils that occur between the expiration of the current member term and the annual set of Secretarial appointments. This allows a member to continue to serve on the Council following the expiration of their term until an appointment has been made. Unless reappointed, the member's service ends on the date of the announcement, even if that member's specific seat remains unfilled. Additionally, subsections 4(h) and 4(i) of section 4, Description of Duties, had been removed from the Council charters. The language was found to be irrelevant to the Councils mission and ANILCA mandates; the Federal Subsistence Board (Board) and Secretaries of the Interior and Agriculture agreed.

### ***Council Application/Nomination Open Season***

Ms. Wessels presented the Council with an update on the Council Application/Nomination season. The application period will close on February 28<sup>th</sup>. In December of 2021, the Council had four vacant or expiring terms. Currently only one application had been received. Also, three incumbent seats expire (Mr. Holmes, Mr. Koso, and Mr. Rohrer), and incumbent applications must be submitted before February 28<sup>th</sup>. Ms. Trumble and Ms. Hayden was reappointed to serve on the Council and their term expires in 2024. Ms. Wessels requested that the Council reach out to folks in the communities and encourage them to apply or nominate them. Ms. Skinner was concerned about the low numbers of Council members on both their Council and the Bristol Bay Council. She expressed that she wants to keep the two Councils separate and asked if the Board could combine the two Councils because of their low numbers. Ms. Wessels confirmed that there is no plan to combine the Councils and attributed the low application rates due to the pandemic. OSM had been working on more outreach to these regions and requested the Council to help spread the word in their communities. Ms. Skinner posed the question to the Council: is having a geographic balance more important than having 10 Council members? The Council would ideally like to see five from Kodiak and five from the Aleutians; however, the seats should be filled regardless of where the applicants came from.

### ***Sea Otter Discussion***

The sea otter discussion was placed on the agenda at the request of the Council from previous meetings to have this topic on the agenda permanently. Ms. Wessels reported that there was no update from Marine Mammal Management or from the Sea Otter Working Group for the meeting. Ms. Skinner informed the Council that the intent of the Sea Otter Working Group was to meet after the winter meeting. After the meeting, it would be more clear what kind of discussion or information should be at the fall meeting. Ms. Chernoff echoed Ms. Skinner's sentiment on the Sea Otter Working Group and said it was difficult to meet prior to the winter meeting due to pandemic difficulties. Ms. Chernoff also reported that there was a law before Congress that would seek to ban fur, and this could potentially affect sea otter harvest. She

also reported that the Burke Museum was doing a sea otter study, and was collecting sea otter skulls; it would be beneficial to receive an update from them in the future.

## **New Business**

### ***Fisheries Resource Monitoring Program Update***

Mr. Jarred Stone presented the Council with the Fisheries Resource Monitoring Program (FRMP) update. The 2022 FRMP funding cycle is in the final stages. The Board met in early February 2022 and made recommendations about the 2022 Monitoring Plan. The Assistant Regional Director of OSM will approve the plan once the budget has been finalized and applicants will be notified of the status of their submission. This summer, the Council will have the opportunity to develop Priority Information Needs (PINs) for the 2024 FRMP. The Council will have an opportunity to review and finalize the PINs at their fall 2022 meeting. Mr. Stone requested volunteers from the Council to meet with the Bristol Bay Council this summer to identify knowledge gaps and information needs for the management of the subsistence fisheries for the Southwest Region. Ms. Skinner, Ms. Trumble, and Mr. Holmes volunteered to assist with the development of PINs. Mr. Stone will notify the Council of future meeting dates so others may have an opportunity to participate too if they are able.

### ***Call for Federal Fish and Shellfish Proposals***

Mr. Stone informed the Council that the Board will be accepting proposals to change Federal regulations for the subsistence harvest of fish and shellfish on Federal public lands and waters for the 2023-2025 regulatory years for a period of at least 30 days upon the publication of the proposed rule in the Federal Register. The Board will consider proposals to change Federal subsistence fish and shellfish seasons, harvest limits, methods, and means related to taking of fish for subsistence uses, as well as customary and traditional use determinations. The Council did not develop any fish or shellfish proposals at the meeting.

### ***Fisheries Closure Review Discussion***

Mr. Stone presented to the Council the information on the 14 Fisheries Closure Reviews for the Kodiak/Aleutians Region that will come for Council's review and action during the fall 2022 meeting. The OSM closure reviews will include analysis of each closure and will provide a recommended action. Actions the Council may take are retain, modify, rescind, or defer. Mr. Stone explained that if a closure is rescinded, it will remove the closure from regulation. If a Federal subsistence season and harvest limits existed in regulation, that season and harvest limit would become effective. If no Federal season or harvest limit existed and a State regulation existed, then the State regulation would become effective. If there were neither existing Federal nor State subsistence regulations no regulations exist under both Federal and State subsistence regulations, as is the case in the freshwaters involved with a few of the closure reviews, then the State sportfishing regulation would become effective for seasons and harvest limits. If the Council chooses to rescind a closure in an area that does not have existing Federal season and harvest limits in place, a parallel proposal to add one could be submitted during the 2023-2025 call for fisheries proposals. In addition, if the Council chooses to rescind a closure in an area that did have existing Federal season and harvest limits in place, but the regulation may be too liberal or too restrictive, a parallel proposal to change it could be submitted during the 2023-2025 call for fisheries proposals.



The Council had a robust discussion on the implications of rescinding a closure and its potential effects on subsistence harvest opportunities. They discussed whether they should attempt to assess which closures might warrant a parallel proposal that could be developed at the meeting. It was discussed that in some circumstances, there were State sportfishing opportunities in areas where there are no Federal subsistence harvest opportunities due to the standing Federal closures. The Council expressed that the timeline to discuss fisheries closure reviews was not ideal as the open call for submitting fisheries proposals will be open shortly - in the spring of 2022. Analysis on closures will not be available until the fall 2022 meeting for the Council to review, meaning that if the Council voted to rescind a closure, they would have to wait two years to have the opportunity to submit a Federal proposal. Ms. Trumble noted the importance of having subsistence regulations in place especially in times when there are salmon shortages and allocation decisions amongst user groups must be made. She also reminded the Council that some of these closure reviews were deferred by the Board from the last regulatory cycle to allow for more public outreach. Mr. Holmes inquired what outreach efforts had been done and if briefings had occurred with local Advisory Councils (AC). Mr. Stone informed the Council that OSM staff, along with volunteers from the Council, reached out to communities and Tribes, as well as ACs. In January of 2021, a meeting was held with Tribal representatives from Kodiak Island. In February of 2021, OSM presented the Kodiak Fish and Game AC with the closure reviews. OSM also attended Dutch Harbor/Unalaska Fish and Game ACs, which had to be canceled due to the Committee not having a quorum. Volunteers from the Council met twice during the summer of 2021 and developed outreach plans that provided shorter summaries and maps on the website to help clarify closure areas. Fliers were distributed to communities in December of 2021. Radio and newspaper advertisements have been drafted and will be released closer to the fall 2022 meeting.

- Motion by Ms. Skinner, seconded by Mr. Holmes, to table the discussion until the second day of the meeting so Council members may have a chance to review closures and draft regulatory language if needed.

The motion passed on a unanimous vote.

After the lunch recess Ms. Skinner and Ms. Chernoff requested if Mr. Stone, during the second day of the meeting, could present the Council with a summary of what the regulations would be if these closures were rescinded, and in what areas there are already Federal subsistence regulations in place. The Council asked Ms. Fox from ADF&G Kodiak questions about management authority of waters if closures are rescinded and State and/or Federal regulations already existed. Ms. La Vine informed the Council that it could make there were other possibilities, such as special actions, Council could take later if they chose to rescind a closure and did not have time to develop a parallel proposal.

During the second day of the meeting Mr. Stone presented the Council with two options: to work together through closures one by one and develop proposals at this meeting or to work with their communities and OSM Staff to submit proposals when the call is open. Regardless of who submitted a proposal, the Council would still be presented with proposals at the fall 2022 meeting for final recommendation. The

Council discussed reactivating the working group but decided that delaying the proposals another two years was not ideal.

- Motion by Mr. Rohrer, seconded by Mr. Holmes, to take no action on developing fisheries regulatory proposals at the meeting. The Council encouraged individuals from the Council to submit proposals during the open call if they found the need after talking with a community.

The motion passed on a unanimous vote.

#### ***Call for Non-rural Determination Proposals***

Dr. Roberts informed the Council that the Board will be accepting proposals to formally change in Federal regulations concerning a community's status from non-rural to rural or from rural to non-rural. Any valid non-rural determination proposal submitted this year will be acted on by the Board in 2025. Upon the publication of the proposed rule in the Federal Register, the public comment and proposal submission period will be open for at least 30 days. The call for non-rural determination proposals occurs every four years concurrent with every other fisheries regulatory cycle. The next call for proposals for non-rural determinations will be in 2026. The Council did not develop any non-rural determination proposals at the meeting.

#### ***Review and Approve FY-2021 Annual Report***

The Council reviewed the FY-2021 Annual Report and requested that a typo in topic 5 *Invasive Species* be edited. It was requested that topic 3 *Food Security* be edited to highlight the affected food security for the Kodiak/Aleutians Region. Topic 1 *Level of Staffing in Refuges Within the Region* was requested to be edited to emphasize how staff shortages had resulted in annual surveys for critical subsistence species not being completed.

- Motion by Mr. Rohrer, seconded by Ms. Skinner, to approve the suggested edits to the Annual Report.

The motion passed with unanimous support.

#### ***Federal Subsistence Board Annual Report Reply Process Review and Revision Discussion and Council comments and feedback***

Ms. Robbin La Vine informed the Council that the Board is seeking the Council's input on how the Board responds to issues in Annual Reports. The Interagency Staff Committee suggested that in addition to providing the Board with the Annual Report, letter writing could be a way to request the Board response to an important topic or concern. The Council agreed that writing letters would give better direction to the Board, a better way to direct the Council's immediate needs and allow for quicker communication between the Board and the Council.

***Receiving Public Testimony Protocol – Guided Discussion***

Dr. Brent Vickers guided the Council through the discussion on how the Council would like to receive public comments on proposals during the fall 2022 public meeting cycle, where the Council will be discussing fisheries proposals and closure reviews. There was consensus among the Council members that receiving written or oral public comments is essential and comments should be accepted throughout the duration of the meeting. The Council would like to receive public comments in their entirety from the Coordinator, not as a summary. The Council discussed the importance of having meeting materials posted online for the Council and the public's accessibility. If public comments were received prior to the meeting, the Council expressed interest in having the comments available online to reference. The Council also discussed different outreach opportunities that could be used to engage the public, such as utilizing social media and providing contact information for Council members, so the public can interact with members.

***Briefing and Council comments on proposed actions to automate Federal subsistence permits***

Dr. Vickers informed the Council that the Office of Management and Budget is exploring ways to collect information from the public and the use of automated permits within our Program. OSM was tasked with getting feedback from the public and Councils until November 15th, 2022. OSM provided the Council with a set of questions to address potential issues identified by OSM such as internet infrastructure, conservation concerns, and ability to limit permits and/or address quotas. The Council also expressed the importance of having a representative present so community members can ask questions and obtain permits.

***Briefing on the Secretarial regulations proposing the inclusion of identified submerged lands in the Tongass National Forest***

Dr. Vickers provided an information briefing on the proposed rule that would add to the list of submerged parcels in the Federal subsistence regulations that have been identified through agency review. The purpose of this proposed rule is to complete the regulatory proceedings to address submerged public lands within the Tongass National Forest. The document is to be published in the Federal Register in February 2022, and will have a 60-day comment period. The Council requested a notification be sent out to the Council to inform them when the proposed rule is published, and the information be updated on the OSM website to elicit public comments.

**Agency Reports:**


- Qawalangin Tribe, update on McLees Lake project presented by Chandra Poe, Qawalangin Tribe
- Izembek National Wildlife Refuge Activity Report presented by Maria Fosado, Izembek NWR
- Maritime National Wildlife Refuge Winter 2022 report presented by Steve Delehanty, Maritime NWR
- Kodiak National Wildlife Refuge activity report provided by Mike Brady and Bill Pile, Kodiak NWR
- Kodiak National Wildlife Refuge Proposed Administrative and/or Regulatory Changes to the Kodiak Fishing Regulations for 2023-2025 update provided by Bill Pile, Kodiak NWR
- Division of Subsistence projects update provided by Jackie Keating, ADF&G

- 2021 Buskin River Sockeye Salmon stock assessment update provided by Kelly Krueger, ADF&G
- Alaska Peninsula/Aleutian Islands Salmon fishery update provided by Tyler Lawson, ADF&G
- McLees Salmon weir in Unalaska update provided by Jenny Rene, Qawalangin Tribe
- Office of Subsistence Management updated provided by Dr. Brent Vickers, OSM

**Future Meeting Dates:**

Fall meeting will be held September 20-21, 2022, in Cold Bay.

Winter meeting will be held February 22-23, 2023, in Kodiak.

  
\_\_\_\_\_  
Leigh Honig, Council Coordinator, on behalf of Katya Wessels, Designated Federal Officer  
USFWS Office of Subsistence Management

\_\_\_\_\_  
Della Trumble Chair  
Kodiak/Aleutians Subsistence Regional Advisory Council

These minutes will be formally considered by the Kodiak/Aleutians Subsistence Regional Advisory Council at its fall 2022 meeting, and any corrections or notations will be incorporated in the minutes at that meeting.

A more detailed report of this meeting, copies of the transcript, and meeting handouts are available upon request. Call Leigh Honig at 1-800-478-1456 or 907-891-9053, leigh\_honig@fws.gov.



## Federal Subsistence Board

1011 East Tudor Road, MS 121  
Anchorage, Alaska 99503 - 6199



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

FOREST SERVICE

AUG 15 2022

In Reply Refer To  
OSM 22087.LHS

Della Trumble, Chair  
Kodiak/Aleutians Subsistence Regional Advisory Council  
c/o Office of Subsistence Management  
1011 E. Tudor Road, M/S 121  
Anchorage, Alaska 99503-6199

Dear Madam Chair,

The Federal Subsistence Board (Board) met on April 12-15, 2022 via teleconference to consider proposed changes to Federal subsistence management regulations for the harvest of wildlife on Federal Public Lands in Alaska and wildlife closure reviews. This letter is to provide a report on the actions taken by the Board on proposals and closure reviews affecting Federally qualified subsistence users.

Pursuant to section 805(c) of the Alaska National Interest Lands Conservation Act (ANILCA), Federal regulations (50 CFR 100.10 (e)) the Board generally defers to the recommendations of a Subsistence Regional Advisory Council (Council) regarding take unless, (1) the recommendation is not supported by substantial evidence, (2) the recommendation violates recognized principles of fish and wildlife management, or (3) adopting the recommendation would be detrimental to the satisfaction of subsistence needs. When a Council's recommendation is not adopted, the Board is required by Secretarial regulations to set forth the factual basis and reasons for the decision.

The Board acted on 59 proposals and 16 closure reviews for the 2022-24 wildlife regulatory cycle. The Board agreed with the recommendations of the Regional Advisory Councils, in whole or with modifications, on 50 of 59 proposals. The Board deferred four proposals: WP22-07, WP22-08, WP22-10, and WP22-40 until the winter 2023 Board meeting. The Board also acted on deferred fisheries proposal FP21-10, adopting it with the Office of Subsistence Management modification. Furthermore, the Board accepted the recommendations of the Regional Advisory Councils on 15 of 16 wildlife closure reviews, voting to maintain status quo on 14 of them.



Details of these actions and the Boards' deliberations are contained in the meeting transcriptions. Copies of the transcripts may be obtained by calling toll free number 1-800-478-1456, and are available online at the Federal Subsistence Management Program website, <https://www.doi.gov/subsistence/library/transcripts/federal-subsistence-board>.

The Board uses a consensus agenda on those proposals where there is agreement among the affected Regional Advisory Council(s), a majority of the Interagency Staff Committee, and the Alaska Department of Fish and Game (ADF&G) concerning a proposed regulatory action. These proposals were deemed non-controversial and did not require a separate discussion beyond that, which was offered in the analysis. The consensus agenda contained three proposal(s) affecting the Kodiak/Aleutians Region. The Board deferred to the Kodiak/Aleutian Regional Advisory Council (Council) recommendations and *adopted* **WP22-37** with the Office of Subsistence Management (OSM) modification, which recognized customary and traditional uses of ptarmigan by all residents of Unit 9D; **WP22-38a**, which recognized the customary and traditional uses of caribou in Unit 10 Unimak Island for residents of Cold Bay and Nelson Lagoon; and **WP22-38b** with the OSM and Council's modification to remove the caribou closure from the Unit 10 regulations and delegate authority to the Izembek National Wildlife Refuge manager to open and close Federal public lands to non-Federally qualified users annually based on the current population status of the Unimak caribou herd in consultation with ADF&G staff via delegation of authority letter.

There were three proposals affecting the Kodiak/Aleutians Region on the non-consensus agenda. Of the three of the proposals, the Board took action consistent with the Council's recommendations on two. The Board *adopted* statewide proposal **WP22-01**, which clarified who is and who is not a participant in a community harvest system and how that affects community and individual harvest limits; and statewide proposal **WP22-02**, which removed language from designated hunting regulations prohibiting the use of a designated hunter permit by a member of a community operating under a community harvest system.

The Board's actions differed from the Kodiak/Aleutians Council's recommendations for one proposal on the non-consensus agenda: **WP22-39**. The Board's actions on this proposal are explained in detail in the enclosed report.

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

If you have any questions regarding the summary of the Board's actions, please contact Lisa Hutchinson-Scarborough, Council Coordinator, at 907-310-4097 or [lisa\\_hutchinson@fws.gov](mailto:lisa_hutchinson@fws.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Christianson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Anthony Christianson, Chair  
Federal Subsistence Board

Enclosure

cc: Federal Subsistence Board  
Kodiak/Aleutians Regional Advisory Council members  
Office of Subsistence Management  
Interagency Staff Committee  
Administrative Record

## FEDERAL SUBSISTENCE BOARD 805(c) REPORT

April 12-15, 2022  
via teleconference

Section 805(c) of the Alaska National Interest Lands Conservation Act provides that the “Secretary ... shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regions for subsistence uses.” The Secretary has delegated authority to issue regulations for the take of fish and wildlife to the Federal Subsistence Board. Pursuant to this language in Section 805(c), the Board generally defers to the Council’s recommendations. However, Section 805(c) also provides that the Board “may choose not to follow any recommendations which [it] determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs.” The purpose of this report is to detail how the Board’s action differed from the Council’s recommendations based on these criteria.

### KODIAK/ALEUTIANS AREA WILDLIFE PROPOSALS

#### Statewide Proposals

##### Wildlife Proposal WP22-39

DESCRIPTION: WP22-39 requested to create specific harvest regulations for Alaska hare (*Lepus othus*) in Units 9 and 17. Submitted by: Alaska Department of Fish and Game (ADF&G).

##### COUNCIL RECOMMENDATIONS:

Kodiak/Aleutians Subsistence Regional Advisory Council – **Oppose**

Bristol Bay Subsistence Regional Advisor Council – **Support with modification** to change the season closing date to March 31<sup>st</sup>.

Western Interior Alaska Subsistence Regional Advisory Council – **Defer to affected Councils**

BOARD ACTION: **Adopted as modified by Bristol Bay Council** to change the season closing date to March 31<sup>st</sup> **and further modified by the Office of Subsistence Management** to revise the definition of hares in Federal regulations.

JUSTIFICATION: Recent observations and local knowledge indicate a reduction in the amount of Alaska hare seen over recent years. Reducing the amount of harvest is a biologically appropriate means of promoting population recovery. The longer season proposed by the Bristol Bay Subsistence Regional Advisory Council accommodates winters starting later in their region, but still maintains the annual harvest limit of four hare per year which will help achieve the desired management and biological impact for the species, which is to reduce overall harvest while still providing subsistence opportunity. Additionally, this action would have the benefit of not disturbing the Alaska hare’s late spring mating season.



## Federal Subsistence Board

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BUREAU of INDIAN AFFAIRS

FOREST SERVICE

JUL 27 2022

In Reply Refer To:  
OSM 22059.KW

Della Trumble, Chair  
Kodiak/Aleutians Subsistence  
Regional Advisory Council  
c/o Office of Subsistence Management  
1011 East Tudor Road, MS 121  
Anchorage, Alaska 99503-6199

Dear Chairwoman Trumble:

This letter responds to the Kodiak/Aleutians Subsistence Regional Advisory Council's (Council) fiscal year 2020 Annual Report. The Secretaries of the Interior and Agriculture have delegated to the Federal Subsistence Board (Board) the responsibility to respond to these reports. The Board appreciates your effort in developing the Annual Report. Annual Reports allow the Board to become aware of the issues outside of the regulatory process that affect subsistence users in your region. We value this opportunity to review the issues concerning your region.

1. **Level of staffing at the Refuges in our Region and at the Office of Subsistence Management**

*Increased staffing at the Kodiak, Izembek, and Alaska Maritime National Wildlife Refuge (NWR) is needed to address caribou issues in Units 9 and 10 and other subsistence projects that the refuges are addressing in our region. We have been aware of vacant positions at the Refuges in our region and at OSM. Not having these position results in not having any outreach and no visiting of the communities. In the past, when the Refuge Information Technicians (RIT) was staffed at the Kodiak NWR, excellent outreach across the communities occurred, and we hope that the staffing levels increase across the region will result in improved community outreach in collaboration with Council members. We encourage the respective agencies work to fill these positions to address important issues facing our region. In Units 9 and 10, there have been Federal special actions recently and the caribou populations and subsistence uses should be closely monitored so that this important resource and other subsistence resources can be sustained and subsistence uses can be maintained. The Council would like to bring to the*

*Board's attention that staff shortages also impacted the caribou population annual surveys completion.*

**Response:**

The Board appreciates the Council's acknowledgement of current agency staffing challenges. The U.S. Fish and Wildlife Service (USFWS) recognizes the importance of having adequate staffing at all refuges throughout Alaska and supports the continued staffing at remote refuges such as Izembek, Kodiak, and Alaska Maritime NWRs.

The USFWS entered an Indian Self-Determination and Education Assistance Act (ISDEAA) 638 - Title 1 contract with Koniag to provide services between the Tribes and corporations through the hiring of a Community Affairs Liaison (CAL) to work with the Kodiak NWR. This partnership and Koniag direct support of the CAL has facilitated the ability to take over all duties, activities, and function of a Refuge Information Technician position. This is the first ISDEAA 638 - Title 1 contract for the USFWS. The CAL position has been filled by Amy Peterson of Old Harbor. We appreciate the Council's support of communications between the Kodiak NWR and the villages and agree that this improves community outreach.

Alaska Maritime NWR is operating at 66% of normal staffing with nine vacant positions. Four biologist positions are vacant, along with many other critical positions. The Refuge expects to refill two of the nine vacant positions in the next six months, including one biologist. As the Council may know, most of Alaska Maritime NWR has no caribou and their work centers around many other issues. We know the non-native caribou of Adak and Kagalaska are of interest to the Council, but routine population monitoring is limited by staffing shortages, operational funds, and helicopter availability on island.

Within the last two years, the USFWS Alaska Region prioritized the hiring of three permanent full-time positions at Izembek Refuge, bringing the staffing level up to five permanent full-time employees. Unfortunately, retention at remote NWRs remains a challenge and due to the departure of the Administrative Support Assistant, staffing levels dropped to four employees in the fall of 2021. However, Izembek NWR hopes to fill one permanent full-time position within the next year. While staffing limitations and the COVID pandemic prevented the Izembek NWR from completing the winter caribou survey in 2021, this survey was prioritized and completed in 2022. This caribou survey report will be presented to the Council at your fall 2022 meeting. Izembek NWR continues to collaborate with the Alaska Department of Fish and Game on annual caribou survey efforts and is committed to continuing those efforts. In addition, as we continue to emerge from the COVID pandemic, Izembek NWR is ramping up community outreach efforts and looks forward to updating your Council at your fall meeting.

Finally, the Board is pleased to confirm the successful hire of a number of new staff at the Office of Subsistence Management (OSM), filling out long held vacancies, including the permanent hire of your region's new Council Coordinator, Lisa Hutchinson-Scarborough.



## 2. **Lack of applicants for Council vacancies**

*The Council is concerned that there are vacancies on the Council that cause a lack of adequate representation throughout a diverse and widely dispersed region. As noted above, we have expressed concern about staffing shortages affecting subsistence activities and the level of vacancies on the Council is evidence of a need in our region. The Councils requests that Office of Subsistence Management notifies Council members prior to the Council membership application deadline if enough of applications were received for their region, which would help the Council to conduct outreach in their communities.*

### **Response:**

As stated in the Board's FY-2020 reply to the Council, the Board understands and shares the Council's concerns regarding the vacant seats on the Council. A wide representation of subsistence and commercial/sport users across the vast Kodiak/Aleutian Subsistence Region ensures that the Board receives solid recommendations on regulations, policies, management plans, and other matters related to subsistence uses of fish and wildlife within the region. However, the Board cannot make recommendations to the Secretaries of Interior and Agriculture regarding the Council appointments without a sufficient number of applications from the region.

The Council has two vacant seats because there has been an insufficient number of applications to fill them. In the 2021 appointment year, the Council had four seats open for the Secretarial appointments, but the Board received only two applications from the Kodiak/Aleutians Region. At the same time, one of the three incumbents did not reapply and; therefore, was not reappointed. In the 2022 appointment year, the Board received four applications to fill five vacant seats. This is the fourth year in a row when the Kodiak/Aleutians Region has not had enough applications to fill all its vacancies.

The Board, through OSM, will continue conducting comprehensive application outreach throughout the region and the targeted outreach by your newly hired Council Coordinator. Every year OSM conducts extensive outreach, soliciting applications in the Kodiak/Aleutian Region and throughout the State during the application period, which is open on average for five to six months. A more detailed description of outreach efforts can be found in the Board's FY-2020 reply. Additionally, in the 2022 appointment year, OSM staff made special announcements regarding the open application period during the fall 2021 and winter 2022 Council meetings and notified Council members at their winter 2022 meeting on the number of applications received for their region.

The Board appreciates all efforts from Council members to conduct outreach in their communities and encourage other residents to apply for a seat on the Council. We are hopeful that the 2022 appointment year will result in a fully seated Council.

### 3. **Food Security**

*Unfortunately, COVID-19 restrictions continue to affect food security in the entire Kodiak/Aleutian Region particularly because of supply chain challenges. These challenges underscore the importance of having reliable and adequate access to subsistence resources for our communities to ensure food security by enabling them to secure as much food locally as possible. We hope that the Board and the program can keep these considerations in mind by remaining flexible and responsive in addressing future requests for subsistence uses.*

#### **Response:**

The Board recognizes that COVID-19 is continuing to highlight food security issues in Alaska, and we share the Council's concern with this problem. The Board will continue to be flexible and responsive in its efforts to help Alaskans meet their subsistence needs through the regulatory process. The Federal Subsistence Management Program can support adaptation to changing conditions by ensuring that regulations facilitate flexibility rather than hinder it. The Special Action process provides an avenue for responding to unexpected issues and changes, and the Board will continue to be responsive to the need for quick action on out of cycle requests. Flexibility can also be built into the subsistence management system by delegating authority to local land managers. Delegation of authority enables managers to respond more quickly to changes in the timing and availability of subsistence resources from season to season.

More persistent changes to the seasonality and availability of resources due to issues like climate change can also be accommodated through the submission of proposals as part of the normal regulatory cycles and special action requests. Closures to non-Federally qualified subsistence users, or ANILCA Section 804 prioritizations among Federally qualified subsistence users, may become necessary if shortages of traditional subsistence resources continue to be prevalent. Other species may also become more abundant and important to subsistence economies with shifts in environmental conditions. In this case, the Federal Subsistence Management Program can assist communities in delineating seasons, harvest limits, and methods and means for harvesting these resources.

### 4. **Invasive Species: Crayfish**

*We want to express our appreciation and support of the crayfish research projects conducted by the Sun'aq Tribe of Kodiak. We appreciate the documentation of the increasing level of crayfish in the Buskin River drainage. It could be that crayfish may be a major factor in the crash of the salmon run and hopefully we'll find out with future intensive scale analysis. We appreciate that the U.S. Fish and Wildlife Service (USFWS) and the Bureau of Indian Affairs have provided funding and technical support to continue researching the crayfish issue in the Buskin River drainage. While mentioning invasive species, we would also like to express appreciation to the USFWS for their help in eradicating rats in other areas of the Aleutians.*

**Response:**

The Board recognizes the ambitious work by the Sun'aq Tribe of Kodiak to better understand the complex interrelationship between salmon and the non-native Signal Crayfish (*Pacifastacus leniusculus*) in the Buskin River drainage. The native range of the Signal Crayfish ranges from the Columbia River Basin in the Pacific Northwest north into British Columbia. Records indicate the first sightings of Signal Crayfish in Kodiak were reported in 2002. A decade later, in 2015, the Kodiak Soil and Water Conservation District confirmed its presence with voucher specimens of gravid females and other individuals in a variety of sizes. This introduction has likely caused negative impacts to biodiversity, native fish populations, and habitat. The Sun'aq Tribe has since conducted various research using kick seines and electrofishing to investigate distribution, movement, and diet. More recently the Sun'aq Tribe of Kodiak has been granted Federal funding to do a mark-recapture project with the objective of gaining a better understanding of Signal Crayfish populations and movement within the Buskin River drainage.

In 2021, the State of Alaska adopted new regulations that reclassified the Signal Crayfish as a banned invasive species. This regulation prohibits a person from possessing, importing, propagating, transporting, releasing, purchasing, or selling within the State, any life stage of organisms listed under this classification. In the past, the Alaska Department of Fish and Game (ADF&G) promoted sport or subsistence harvest of Signal Crayfish to reduce crayfish abundance; however, the new regulations banning the harvest is intended to prevent illegal introduction of crayfish into waters outside the Buskin drainage and elsewhere within the state. The Board encourages rural residents to be vigilant in the early detection of invasive species and recommends reporting any suspicious sightings to the ADF&G Invasive Species Hotline 1-877-INVASIV (1-877-468-2748).

Sources:

Alaska Department of Fish and Game. 2022  
[https://www.adfg.alaska.gov/index.cfm?adfg=wildlifeneews.view\\_article&articles\\_id=884](https://www.adfg.alaska.gov/index.cfm?adfg=wildlifeneews.view_article&articles_id=884)

Sun'aq Tribe. 2016. Annual Report,  
<http://sunaq.org/wp-content/uploads/2017/03/A16AV00630-Invasive-Species-Sunaq-Tribe-of-Kodiak-Year-1-Report-30DEC2016-1.pdf>

**5. Invasive Species: FRMP support for eradication**

*We understand that the FRMP mainly has fish stock monitoring, harvest reporting and Traditional Knowledge programs but we would like to see them support some more efforts in eradication of invasive species. The Kodiak Refuge has worked with Sun'aq Tribe, and in going forward we like to see FRMP projects to eradicate the crayfish that have been documented as being present in the Buskin River.*

**Response:**

The mission of the Fisheries Resource Monitoring Program is to identify and provide information needed to sustain subsistence fisheries on Federal public lands for rural Alaskans through a multidisciplinary, collaborative program. The Monitoring Program Notice of Funding Opportunity states that activities not eligible for funding under the Monitoring Program include: (1) habitat protection, mitigation, restoration, and enhancement; (2) hatchery propagation, restoration, enhancement, and supplementation; and (3) contaminant assessment, evaluation, and monitoring. The rationale behind this approach is to ensure that existing responsibilities and efforts by government agencies are not duplicated under the Monitoring Program. Land management or regulatory agencies already have direct responsibility, as well as specific programs, to address these activities. Although invasive species and eradication are not specifically listed as ineligible, eradication is not considered information gathering and therefore cannot be funded through the Monitoring Program. More information about the Monitoring Program can be found at <https://www.doi.gov/subsistence/frmp>.

That said, the Board recognizes the importance of studying and mitigating the impacts of invasive species and refers you to our response above and the ambitious project the Sun'aq Tribe of Kodiak is taking on to study the distribution, movement, and diet of the Signal Crayfish in the Buskin River drainage. We encourage further research into this topic by all organizations with the capacity to help to ensure the resiliency of subsistence resources.

6. **Appreciation for the support shown relating to the Unimak caribou and the sea otter issues.**

*We want to express our great appreciation to the staff that helped us undertake the regulatory process that resulted in a limited harvest of Unimak caribou for the nearby subsistence users. Additionally we want to sincerely thank OSM and USFWS staff for helping us gain information relating to sea otter management. Both of these issues seriously effect subsistence harvest and are complicated by multiple levels of regulations and management.*

**Response:**

The Board is pleased to learn about the cooperation of the staff and the Council that resulted in a limited Unimak caribou harvest and learning useful information about the sea otter management. The Board relayed your appreciation to the USFWS and OSM staff. Paul Schuette with the USFWS Marine Mammals Division mentioned that he would be glad to discuss sea otter issues and answer questions with the Council members in the future.

In closing, I want to thank you and your Council for your continued involvement and diligence in matters regarding the Federal Subsistence Management Program. I speak for the entire Board in expressing our appreciation for your efforts and am confident that Federally qualified subsistence users of the Kodiak Aleutian Region are well represented through your work.

Sincerely,



Anthony Christianson  
Chair

cc: Kodiak Aleutian Subsistence Regional Advisory Council  
Federal Subsistence Board  
Office of Subsistence Management  
Interagency Staff Committee  
Benjamin Mulligan, Deputy Commissioner, Alaska Department of Fish and Game  
Mark Burch, Special Project Coordinator, Alaska Department of Fish and Game  
Administrative Record

## **Presentation Procedure for Proposals and Closure Reviews**

### **1. Introduction and Presentation of Draft Staff Analysis**

### **2. Report on Board Consultations:**

- a. Tribes
- b. ANCSA Corporations

### **3. Agency Comments:**

- a. ADF&G
- b. Federal
- c. Tribal

### **4. Advisory Group Comments:**

- a. Other Regional Advisory Council(s)
- b. Fish and Game Advisory Committees
- c. Subsistence Resource Commissions

### **5. Summary of Written Public Comments**

### **6. Public Testimony**

### **7. Regional Council Recommendation (motion to adopt)**

### **8. Discussion/Justification**

- Is the recommendation consistent with established fish or wildlife management principles?
- Is the recommendation supported by substantial evidence such as biological and traditional ecological knowledge?
- Will the recommendation be beneficial or detrimental to subsistence needs and uses?
- If a closure is involved, is closure necessary for conservation of healthy fish or wildlife populations, or is closure necessary to ensure continued subsistence uses?
- Discuss what other relevant factors are mentioned in OSM Draft Staff Analysis

### **9. Restate final motion for the record**

### **10. Council's Vote**

| <b>FP23–05a Executive Summary</b>  |  |  |  |   |                                   |
|--|--|--|--|---|-----------------------------------|
| <b>General Description</b>   | <p>FP23-05a requests to add residents of the Kodiak Coast Guard Base to the customary and traditional use determination for salmon for the Kodiak Area. The proposal also requests to change the area descriptors for the customary and traditional use determination zones within the Kodiak Islands, to clarify the areas under regulation and reduce administrative complexity for the public and Kodiak National Wildlife Refuge staff. <i>Submitted by: Kodiak National Wildlife Refuge.</i></p>  |  |  |   |                                   |
| <b>Proposed Regulation</b>   | <p style="text-align: center;"><b>Kodiak Area - Salmon</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 70%; vertical-align: top;"> <p><i><b>Kodiak Archipelago: All waters of and around the islands of the Kodiak Archipelago. Except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°10.34' North latitude, 156°20.22' West longitude)</b></i></p> </td> <td style="width: 30%; vertical-align: top;"> <p><i>Residents of the Kodiak Area Island Borough, except those residing on the Kodiak Coast Guard Base.</i></p> </td> </tr> <tr> <td style="vertical-align: top;"> <p><i><b>Kodiak Area Remainder: Mainland District, all freshwaters along the southside Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57° 10.34' North latitude, 156° 20.22' West longitude)</b></i></p> </td> <td style="vertical-align: top;"> <p><i>All rural residents</i></p> </td> </tr> </table> | <p><i><b>Kodiak Archipelago: All waters of and around the islands of the Kodiak Archipelago. Except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°10.34' North latitude, 156°20.22' West longitude)</b></i></p> | <p><i>Residents of the Kodiak Area Island Borough, except those residing on the Kodiak Coast Guard Base.</i></p> | <p><i><b>Kodiak Area Remainder: Mainland District, all freshwaters along the southside Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57° 10.34' North latitude, 156° 20.22' West longitude)</b></i></p> | <p><i>All rural residents</i></p> |
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| <p><i><b>Kodiak Area Remainder: Mainland District, all freshwaters along the southside Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57° 10.34' North latitude, 156° 20.22' West longitude)</b></i></p>  | <p><i>All rural residents</i></p>  |  |  |   |                                   |

| FP23-05a Executive Summary                                       |   |
|--|---|
| <b>OSM Preliminary Conclusion</b>                                | <p><b>Support</b> FP23-05a with <b>modification</b> to the proposed customary and traditional use area descriptors:</p> <p><b>Kodiak Area - Salmon</b></p> <p><i><b>Kodiak Archipelago:</b> All waters of and around the islands of the Kodiak Archipelago. <del>Except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°10.34' North latitude, 156°20.22' West longitude)</del></i></p> <p><i>Residents of the Kodiak Area Island Borough, except those residing on the Kodiak Coast Guard Base.</i></p> <p><i><b>Kodiak Mainland District:</b> All freshwaters along the southside Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57° 10.34' North latitude, 156° 20.22' West longitude)</i></p> <p><i>All rural residents</i></p> |
| <b>Kodiak-Aleutians Regional Advisory Council Recommendation</b> |   |
| <b>Interagency Staff Committee Comments</b>                      |   |
| <b>ADF&amp;G Comments</b>  |   |
| <b>Written Public Comments</b>                                   | <b>None</b>   |



**DRAFT STAFF ANALYSIS  
FP23-05a**

**ISSUES**

FP23-05a was submitted by the Kodiak National Wildlife Refuge. The proponents are requesting to add residents of the Kodiak Coast Guard Base to the customary and traditional use determination for salmon for the Kodiak Area. The proponents are also requesting to change the area descriptors for the customary and traditional use determination zones within the Kodiak Islands, to clarify the areas under regulation and reduce administrative complexity for the public and Kodiak National Wildlife Refuge staff.

**DISCUSSION**

The proponents of FP23-05a note that it is inconsistent and unfair to exclude Kodiak Coast Guard Base residents from customary and traditional use salmon harvest opportunities in the Kodiak Area because active-duty Coast Guard service members live both on and off base here. Currently, Kodiak Coast Guard service members who reside off base can become eligible for Federal subsistence salmon harvest opportunities, while Kodiak Coast Guard service members who reside on base cannot. The proponents see no reason why members of the Coast Guard who meet the general eligibility requirements for Federal subsistence priority should be excluded from the privileges granted to all other eligible rural residents of the Kodiak Area. It should also be noted that, in contrast to the situation surrounding Federal subsistence salmon harvests, existing customary and traditional use determinations for the harvest of wildlife do not make a distinction between residents of the Kodiak Coast Guard Base and all other residents of the Kodiak Area (50 CFR §100.24(a)(1)). The proponents also believe that changing the area descriptors for the customary and traditional use determination zones within the Kodiak Islands will reduce administrative complexity and improve public understanding of the areas under regulation.

**Existing Federal Regulation**

**Kodiak Area – Salmon**

*Kodiak Area except the Mainland District: all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°10.34' North latitude, 156°20.22' West longitude)*

*Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base.*

*Kodiak Area Remainder*

*All rural residents*

## Proposed Federal Regulation

### Kodiak Area - Salmon

***Kodiak Archipelago: All waters of and around the islands of the Kodiak Archipelago. Except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°10.34' North latitude, 156°20.22' West longitude)***

*Residents of the Kodiak Area Island Borough, except those residing on the Kodiak Coast Guard Base.*

***Kodiak Area Remainder: Mainland District, all freshwaters along the southside Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57° 10.34' North latitude, 156° 20.22' West longitude)***

*All rural residents*

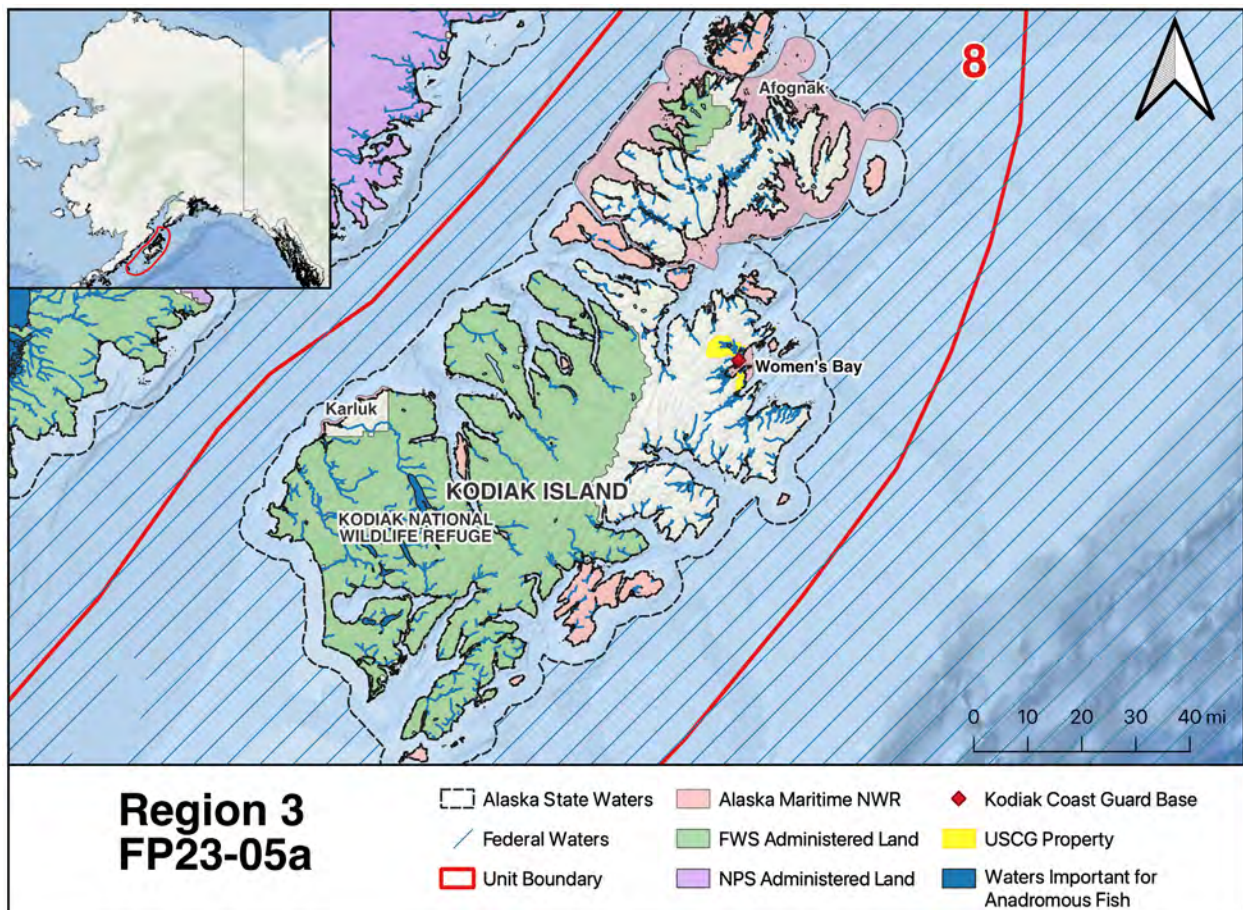
### Extent of Federal Public Lands and Waters

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

### Regulatory History

In 1988, the State of Alaska’s Board of Fisheries (BOF) met to determine the customary and traditional use salmon harvest status for residents of the Kodiak Management Area. At that time, the BOF considered the existence of multigenerational kinship relations between local subsistence users to be a key criterion for establishing customary and traditional use in a given area (Fall 7/2022, pers. comm.). The lack of multigenerational kinship relations between residents of the Kodiak Coast Guard Base was one of the key reasons why residents of the base were excluded from the customary and traditional use determination for salmon in the Kodiak Area at this time (Fall 7/2022, pers. comm.). The BOF also concluded that there were few long-term Alaskan residents living on the base, and that most of the population was transient. (Fall 7/2022, pers. comm.). This finding was another key reason for the exclusion of Kodiak Coast Guard Base residents from the customary and traditional use determination for salmon made in 1988 (Fall 7/2022, pers. comm.).

The Federal Subsistence Management Program assumed management of the subsistence uses of fish and wildlife on Federal public lands in 1990. In 1992, the Federal Subsistence Management Program promulgated specific regulations governing the harvest of fish for subsistence uses in non-navigable waters within and adjacent to Federal public lands (57 Fed. Reg. 22940 [May 29, 1992]). These regulations incorporated many provisions from earlier State of Alaska subsistence fishing regulations. The existing customary and traditional use determination for salmon in the Kodiak Area was carried over from the earlier 1988 ruling by the State of Alaska’s Board of Fisheries.



**Figure 1.** Kodiak Management Area Map

During a meeting of the Kodiak-Aleutians Subsistence Regional Advisory Council (KARAC) that took place in 1994, Robert Stovall of the Kodiak National Wildlife Refuge noted that the Coast Guard had recently submitted a letter to the Federal Subsistence Board (Board) asking for clarification about why they were left out of the customary and traditional use determination for salmon in the Kodiak Area (KARAC 1994). According to Mr. Stovall, the Board did not consider residents of the Kodiak Coast Guard Base to lead the same types of subsistence-oriented lifestyles as many of the other rural residents of Kodiak Island at this time (KARAC 1994). During this same meeting, KARAC Chair Olsen expressed additional concerns about extending customary and traditional salmon harvest opportunities to residents of the Kodiak Coast Guard Base (KARAC 1994). Chair Olsen was specifically concerned about the impacts of potential expansions of the Kodiak Coast Guard Base and base personnel on local fisheries, the

effect that such expansions might have on the rural determination for the Kodiak Area, the potential difficulties of distinguishing qualified Alaskan resident Coast Guard service members from non-resident Coast Guard service members stationed at the base, and the inequity of extending Federal subsistence harvest opportunities to Kodiak Coast Guard Base residents who were provided commissary and related resources that other residents of Kodiak Island could not access (KARAC 1994). However, some KARAC members like Mr. Squartsoff, were not as concerned about the issues of potential base and personnel expansion impacting the rural determination for the Kodiak Area (KARAC 1994).

In 1997, *Payton vs. The State of Alaska* (938 P.2d 1036 Alaska 1997) challenged the State's earlier use of multigenerational kinship relations as a key criterion for establishing customary and traditional use in a given area. The Plaintiffs, Tom and Diane Payton were ultimately successful in challenging this kinship criterion, as the Supreme Court of Alaska (The Court) ruled that the State Board of Fisheries' earlier customary and traditional use determination for the Yentna River Area "erroneously required current users of salmon in the upper Yentna River area to be related to prior generations of users in the area rather than focusing on whether the fish stocks are customarily and traditionally taken or used for subsistence" in that area. The Court also found it problematic to use short average length of residency as a disqualifying factor in customary and traditional use determinations. The Court noted "we consistently have interpreted 'customary and traditional' to refer to 'uses' rather than 'users.'" As a result of the ruling, a lack of kinship relationships between residents should no longer be used as a basis for denying customary and traditional subsistence use status to the residents of a given area. A relatively short average length of residency for recent residents should also not necessarily preclude a customary and traditional use determination, as long as there is evidence of ongoing, customary use of the resource. This ruling led to a change in the customary and traditional use determination for the residents of the Yentna River Area. However, it appears that the ruling has never been considered in relation to the customary and traditional use status of the residents of the Kodiak Coast Guard Base.

In 1999, the Federal Subsistence Board adopted Federal regulations for fish in navigable waters within and adjacent to Federal public lands where there is a Federal reserved water right (64 Fed. Reg. 1276 [January 8, 1999]). In 1999, the Board also revised the determinations for fish and shellfish to incorporate both the past Alaska Board of Fisheries customary and traditional use determinations that were in compliance with Title VIII of ANILCA, and the determinations that the Board of Fisheries had made since 1990 where they applied on Federal public waters and were consistent with Title VIII of ANILCA (64 Fed. Reg. 64; 1279–1284 [January 8, 1999]). The earlier 1988 customary and traditional use determination for salmon in the Kodiak Area was again carried over during this period. FP23-05a is the first proposal specifically addressing the status of Kodiak Coast Guard Base residents since this time.

Until 2008, the only significant differences between Federal and State subsistence salmon fishing regulations for the Kodiak Area concerned fishing areas, fishing times, allowable gear, and the residents of the Kodiak Coast Guard Base. Federally qualified subsistence users are allowed to fish 24-hours per-day and use rod-and-reel in addition to gillnets and seines. State users are only allowed to fish from 6:00 a.m. to 9:00 p.m. and cannot use rod-and-reel as a method of harvest. Residents of the Kodiak Coast Guard Base can qualify as State subsistence users in the Kodiak Area after a year of full-time, permanent residence in the area, but not as Federal subsistence users.

In January 2008, the Alaska Board of Fisheries adopted a regulatory proposal submitted by the Alaska Department of Fish and Game (ADF&G) that eliminated salmon harvest limit requirements on subsistence permits for people fishing in waters of the Kodiak Management Area that were not accessible from the Kodiak road system. Although another permit could be obtained to take additional salmon after the harvest limit on the original permit had been reached, it was difficult for people fishing and living off the road system to get additional permits. ADF&G expected that eliminating the harvest limit from permits issued to people that fish for salmon off the road system would result in more accurate subsistence harvest reporting. All Federally qualified subsistence users are also required to obtain an ADF&G subsistence permit to fish for salmon in the Kodiak Area. In 2011, the Federal Subsistence Board adopted a proposal to eliminate salmon harvest limits associated with subsistence permits issued to Federally qualified subsistence users who fish for salmon in the Federal public waters of the Kodiak Area that cannot be accessed via the Kodiak road system. This ruling mirrored the change enacted by the Alaska Board of Fisheries for State subsistence fisheries in the Kodiak Management Area in 2008.

Though different in terms of location and species, a 2010 wildlife regulatory decision in the Eastern Interior Region may also have some relevance for FP23-05a. In May 2010, The Board deliberated WP10-89, submitted by the Eastern Interior Subsistence Regional Advisory Council (EIRAC). WP10-89 requested to remove residents of Fort Greely from the customary and traditional use determination for caribou in Units 20D and 20E, and for moose in Unit 20D. The EIRAC requested the removal of Fort Greely residents from these customary and traditional use determinations because they felt that the temporary nature of their residence at Fort Greely did not allow for the establishment of a long-term, consistent pattern of use (FSB 2010). The Office of Subsistence Management's (OSM) presentation on WP10-89 noted that the Board did not exclude residents of Fort Greely from the customary and traditional use determinations for caribou in Units 20D and 20E, and Moose in 20D when the Board assumed management of the subsistence uses of wildlife on Federal public lands in 1990 (FSB 2010). OSM also noted that "the Board has not made it a [general] practice to exclude residents of military bases from customary and traditional use determinations," noting that residents of US Coast Guard bases in Units 4 (Southeast Region) and 8 (Kodiak Islands) were not excluded from customary and traditional use determinations for wildlife in these Units (FSB 2010: 359). OSM's preliminary conclusion was to oppose WP10-89 because Fort Greely was a "rural community", and its residents exhibited a history of harvesting caribou and moose in the Units under question (FSB 2010: 360). The Ahtna Customary and Traditional Council supported the WP10-89 for the reasons stated in the proposal (FSB 2010). Board member Charlie Bunch from the US Bureau of Indian Affairs also supported the WP10-89, noting that the standard tour of duty for an unaccompanied soldier at Fort Greely was 13 months, and this did not allow for the establishment of a long-term consistent pattern of use by individual service members (FSB 2010). The Board, however, did not adopt WP10-89. The Board noted that removing residents of Fort Greely from the customary and traditional determinations for caribou and moose would be detrimental to the subsistence of the federally qualified rural residents stationed at Fort Greely, and that there was a documented history of the residents of Fort Greely engaging in subsistence practices in the areas under question (FSB 2010).

## Community Characteristics

The Kodiak Coast Guard Base encompasses approximately 22,000 acres of land on the northeastern end of Kodiak Island (Marchioni et al. 2016). The area was originally developed in 1939, as a US Navy base (Mishler et al. 1995). The site was turned over to the US Coast Guard in 1972 (see **Figure 2**). The Kodiak Coast Guard Base is now one of the named communities along the road system within the Kodiak Island Borough, along with Kodiak City, Womens Bay, and Chiniak (Brown et al. 2021). Named communities located off the road system within the Kodiak Island Borough include Akhiok, Aleneva Census Designated Place (CDP), Karluk, Larsen Bay, Old Harbor, Ouzinkie, and Port Lions (Brown et al. 2021). Residents of the Kodiak Coast Guard Base are active-duty Coast Guard service members or civilian support personnel and their families (USFWS 2004). However, many Kodiak Coast Guard personnel also live off base in the surrounding area (USFWS 2004), or at one of two military provided off base housing communities (see **Table 2**). Kodiak Coast Guard personnel engage in a variety of occupations related to maritime safety, security, law enforcement, and environmental protection.

A baseline investigation of Kodiak Island economic practices conducted by ADF&G in 1991 estimated the population of the Kodiak Coast Guard Base to include approximately 611 individuals living in 169 single-family housing units (Mishler et al. 1995). An additional 453 service members were estimated to live in group quarters on base in 1990, but individuals living in group quarters were not included in ADF&G's study survey (Mishler et al. 1995).

In 1991, single-family Kodiak Coast Guard Base households were composed of an average of 3.6 individuals. These households were often young families with small children (Mishler et al. 1995). The vast majority of Kodiak Coast Guard Base residents were under 40 years old, and roughly 54% percent of the population was male in 1991 (Mishler et al. 1995). The heads of Kodiak Coast Guard Base households had typically been residents of the Kodiak Area for an average of 2.3 years (Mishler et al. 1995). In contrast, heads of household in Kodiak City and the Kodiak road zone had been resident in the area for an average of 14.8 and 15.2 years, respectively (Mishler et al. 1995). At the time, Kodiak Coast Guard Base personnel were typically transferred off the island and replaced about every 3 years (Mishler et al. 1995). In the early 1990s, the populations of Kodiak City and the Kodiak road zone also included a significantly greater percentage of residents aged 40 years or older (Mishler et al. 1995).

Commercial fishing and processing have long been the principal economic industries in the Kodiak Area (Mishler et al. 1995; USFWS 2004). Tourism, the service industry, logging, and local, state, and federal government compose key secondary economic sectors (USFWS 2004). The commercial fishing industry has also been important to subsistence users in the Kodiak Area, as many commercial harvesters bring home or give away part of their surplus commercial catch for local subsistence use (Mishler et al. 1995). In 1991, about 15% of all resources harvested by Kodiak Area residents came from fish and marine invertebrates removed from commercial catches (Mishler et al. 1995). Overall, sharing of subsistence resources and gear has long been a key part of social life within the entire Kodiak Area. As one long-term resident explained, sharing “helps build friendships and community” (Mishler et al. 1995: X-23).

According to data gathered in the study by ADF&G, the salmon use practices of the residents of the Kodiak Coast Guard Base compared favorably to their neighbors in Kodiak City and the Kodiak road

zone in the early 1990s (Mishler et al. 1995). Key information about local salmon use, harvest, and reciprocity is displayed in **Table 1** below.

**Table 1.** Salmon Use Practices in Three Kodiak Island Communities in the early 1990s (ADF&G 1995a, 1995b, 1995c)

| <b>Practices</b>                         | <b>Kodiak Coast Guard Base</b> | <b>Kodiak Road Zone</b> | <b>Kodiak City</b> |
|--|--------------------------------|-------------------------|--------------------|
| Residents Using Salmon                   | 97%                            | 91%                     | 93%                |
| Residents Attempting to Harvest Salmon   | 93%                            | 85%                     | 73%                |
| Residents Harvesting Salmon              | 90%                            | 80%                     | 69%                |
| Residents Giving Salmon                  | 55%                            | 60%                     | 61%                |
| Residents Receiving Salmon               | 45%                            | 59%                     | 73%                |
| Average Salmon Harvest per Capita (lbs.) | 33                             | 61                      | 48                 |

More recent data on salmon use and salmon harvests by residents of the Kodiak Coast Guard Base is spotty. For 1999, it was reported that “military” households on Kodiak Island returned 43 subsistence permits, harvesting a total of 886 salmon (Fall et al. 2001: 96). This harvest level per household was well below that reported for communities located off the road system like Port Lions and Ouzinkie (Fall et al. 2001). However, the average number of salmon harvested per household for residents of the Kodiak Coast Guard Base was quite similar to that reported for residents of other communities located along the road system like Kodiak City and Chiniak in 1999 (Fall et al. 2001). In 2001, residents of the Kodiak Coast Guard Base returned 74 subsistence permits, harvesting a reported total of 1,346 salmon (Fall et al. 2003). This harvest level per household was slightly lower than that reported for 1999. However, the average number of salmon harvested per household was still comparable for residents of the Kodiak Coast Guard Base, Kodiak City, and Chiniak in 2001 (Fall et al. 2003). Unfortunately, 2001 appears to be the last time that ADF&G published specific information on subsistence salmon harvests by residents of the Kodiak Coast Guard Base. According to ADF&G staff, a comprehensive study of subsistence harvest and use data was recently completed for the Kodiak Coast Guard Base for the year 2021. This information is scheduled to be published in the fall of 2022. This will be the first comprehensive study update for the Kodiak Coast Guard Base since the 1991 study by ADF&G (Mishler et al. 1995).

According to the most recent Alaska subsistence and personal use fisheries report (Brown et al. 2021: 168), “The total reported subsistence salmon harvest for the Kodiak Area in 2018 was 17,459 fish, less than the reported 2017 harvest and well below the recent 5-year (2013–2017) and 10-year (2008–2017) averages of 26,390 salmon and 28,364 salmon, respectively.” Residents of the Kodiak Island Borough accounted for about 97% of the salmon harvested in 2018, while permit holders from other areas harvested the remaining 3% (Brown et al. 2021).

The total estimated population of the Kodiak Coast Guard Base was 1,673 in 2020 (US Census 2020a). Similar to 1991, approximately 80% of Kodiak Coast Guard Base residents were less than 40 years old in 2020 (US Census 2020a). However, in contrast to earlier studies, roughly 60% of Kodiak Coast Guard Base residents were female in 2020 (DCRA Information Portal 2021d). The median household income for Kodiak Coast Guard service members was \$87,050 during the five-year period between 2016 and 2020



(US Census 2020a). The median household income for the entire Kodiak Island Borough was \$79,173 during this five-year span (US Census 2020b). However, the median household income for residents of Kodiak Island communities located off the Kodiak road system was \$43,750 during this same time period (DCRA Information Portal 2021a, 2021b, 2021c, 2021e, 2021f, 2021g, 2021h).

The US Coast Guard currently provides over 360 family housing units to its Kodiak service members with families. It also provides barracks-style housing units for unaccompanied service members. These housing units are located both on and off base (see **Table 2** and **Figure 2**).

**Table 2.** Kodiak Coast Guard Housing Units (from USCG Base Kodiak Housing Office)

| Housing Community     | Number of Housing Units | Location           |
|-----------------------|-------------------------|--------------------|
| Aviation Hill         | 120+                    | ~ 1 mile Off Base  |
| Lake Louise           | 85+                     | ~ 3 miles Off Base |
| Upper Government      | 90+                     | On Base            |
| Lower Government      | 75+                     | On Base            |
| Unaccompanied Housing | Barracks                | On Base            |

### **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.

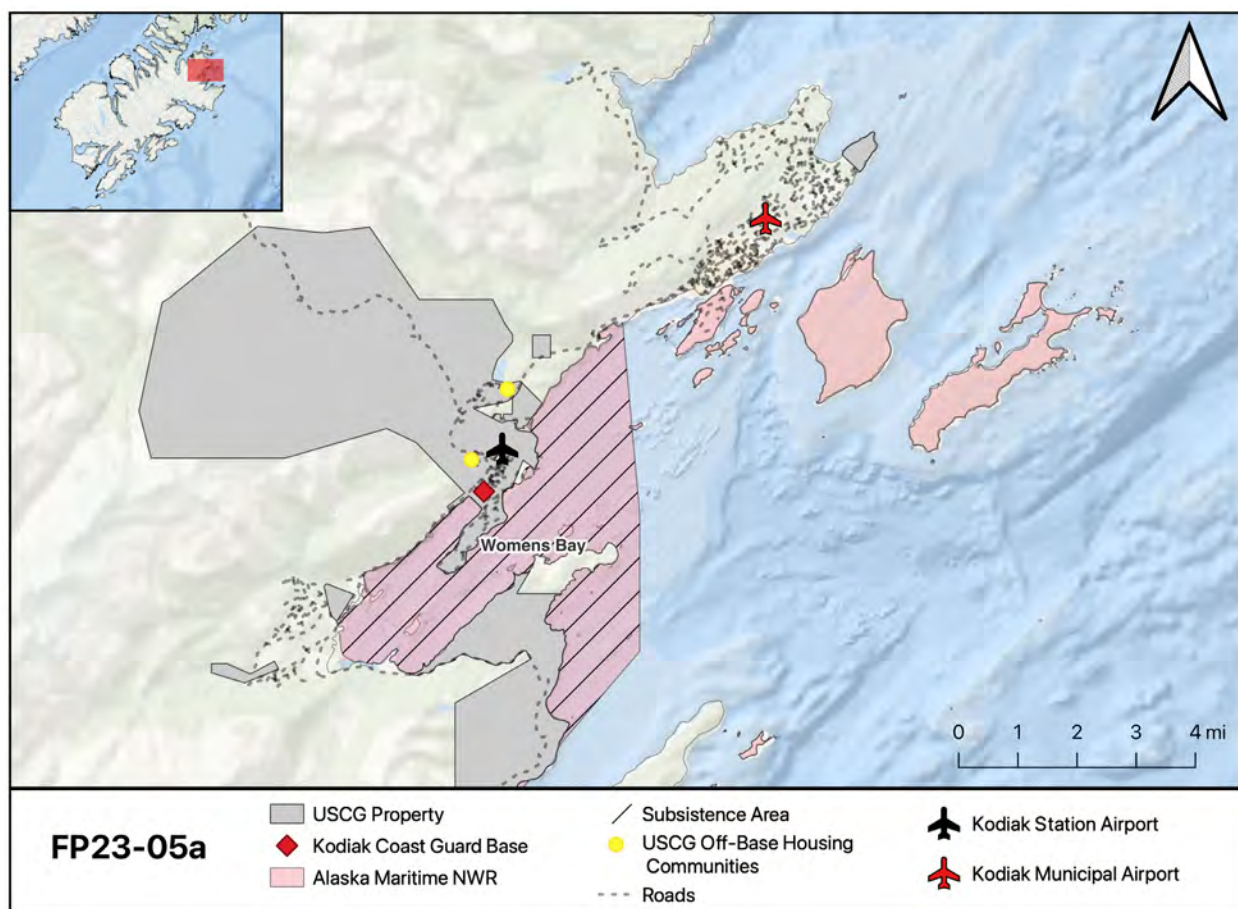
The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq; the Koniag/Qikertarmiut; and Eastern European, Asian, and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence resources have been marine animals, shellfish, near-shore fisheries, sea or littoral birds and their eggs, and salmon harvested primarily from spawning areas (Clark 1998: 176). Salmon remain one of the primary components of subsistence diets for rural residents in this region (Wolfe and Walker 1987, Fall and Walker 1993, Marchioni et al. 2016). Historically, some of the most-utilized harvest areas for subsistence salmon in the Kodiak archipelago have been the Buskin and Pasagshak Rivers located on the northern end of Kodiak Island, and the southeast side of Afognak Island at Litnik (Anderson et al. 2016; Brown et al. 2021).

The Kodiak Island Borough had a population of 13,101 residents in 2020 (US Census Bureau 2020b). 1,673 of these residents lived at the Kodiak Coast Guard Base near the Buskin River and Womens Bay (US Census 2020a). Residents throughout the Kodiak Area currently harvest salmon using subsistence gillnets and seines, rod and reel, and removal of salmon from commercial catch for home use (Marchioni et al. 2016). Access for salmon harvesting is often obtained through social networks, and salmon harvests are regularly shared between community members (Marchioni et al. 2016). When salmon are scarce, area residents must rely upon secondary subsistence resources and/or turn to expensive store-bought foods (Marchioni et al. 2016).

US Coast Guard service members have been based on Kodiak Island since the 1940s, and the entire military installation was turned over to the Coast Guard in 1972. The documented information currently available for Kodiak Coast Guard Base residents shows a history of using, harvesting, and sharing salmon taken from Kodiak fisheries that traces back to at least the early 1990s (Mishler et al. 1995). Likewise, Kodiak Coast Guard Base residents also have a documented history of harvesting non-salmon fish and seafood, deer and other wildlife, and plants and berries for subsistence purposes that can be traced back to the early 1990s (Mishler et al. 1995). For the 1991 survey year, it was estimated that Kodiak Coast Guard service members harvested a per capita average of approximately 33 pounds of salmon, 55 pounds of non-salmon fish, 17 pounds of land mammals, 7 pounds of marine invertebrates, and 3 pounds of wild plants and berries for subsistence purposes (ADF&G 1995).

A 2012 survey conducted by Marchioni and colleagues (2016: 37) found that many newer Kodiak residents who came to Kodiak Island for jobs in the fishing industry or at the Coast Guard base “often go fishing with long-time Kodiak residents knowledgeable about subsistence gear and permits. Survey participants also explained that subsistence gear is expensive, and Kodiak is a welcoming community, so

many families share gear.” This information, combined with the long-term presence of the base, and the foundational investigation of Kodiak Coast Guard Base residents in 1991, suggests that there is a history of Kodiak Coast Guard Base residents engaging in subsistence fishing and related subsistence activities in the Kodiak Area using knowledge, methods, and gear shared between Kodiak community members and passed down through generations. It is also important to note that Federal subsistence priority is supposed to extend to any rural resident of Alaska under the framework of ANILCA. According to the Code of Federal Regulations, an Alaskan resident is defined as “any person who has his or her primary, permanent home for the previous 12 months within Alaska and whenever absent from this primary, permanent home, has the intention of returning to it” (50 CFR §100.4). A person’s residence is considered rural when it occurs in any community or area of Alaska determined by the [Federal Subsistence] Board to qualify as such” under the Rural Determination Process (50 CFR §100.4). The Kodiak Island Borough is recognized as a rural area (50 CFR §100.23). Therefore, many of the Kodiak Coast Guard Base residents would meet the qualification for Federal subsistence priority if not for the current exception in the Kodiak Area customary and traditional use determination noted above. Furthermore, Kodiak Coast Guard service members who happen to reside off base can already qualify for Federal subsistence salmon harvest opportunities after achieving Alaskan residency status. Nearly half of the military-provided housing units for active-duty Kodiak Coast Guard service members and support personnel are located off-base (see **Table 2**).



**Figure 2.** Kodiak Coast Guard Base Vicinity Map

**Effects of the Proposal**

If the Board adopts this proposal, members of the US Coast Guard stationed at the Kodiak base would gain the opportunity to harvest salmon under Federal subsistence management regulations on Federal public waters in the Kodiak Area, if they meet the Alaskan residency requirements for Federal subsistence priority. This would provide these Kodiak Coast Guard base residents with access to Federal subsistence salmon fisheries in the Kodiak Area. It is unclear whether adoption of this proposal would significantly increase subsistence salmon harvests in the area, as it is currently unclear how many Kodiak Coast Guard Base residents meet the residency requirements for Federal subsistence priority.

If the Board does not adopt this proposal, Coast Guard members residing on the Kodiak base will continue to be excluded from Federal subsistence salmon fisheries in the Kodiak Area. Coast Guard members residing on base will be able to continue harvesting salmon in the Kodiak Area according to the State of Alaska’s subsistence or sport fishing regulations.

**OSM PRELIMINARY CONCLUSION**

**Support** Proposal FP23-05a **with modification** to the proposed customary and traditional use area descriptors as shown below:

**Proposed Federal Regulation**

**Kodiak Area - Salmon**

***Kodiak Archipelago:** All waters of and around the islands of the Kodiak Archipelago. Except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°10.34' North latitude, 156°20.22' West longitude)*

*Residents of the Kodiak Area Island Borough, except those residing on the Kodiak Coast Guard Base.*

***Kodiak Mainland District:** All freshwaters along the southside Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57° 10.34' North latitude, 156° 20.22' West longitude)*

*All rural residents*

**Justification**

Removing the exclusion of residents of the Kodiak Coast Guard Base from the customary and traditional use determination for salmon in the Kodiak Area would provide greater access to subsistence opportunities for Kodiak Coast Guard Base residents who meet the residency requirements for Federally qualified subsistence users. It would also end the inconsistent practice of providing Federal subsistence

salmon harvest opportunities to Kodiak Coast Guard service members who reside off base, while excluding Kodiak Coast Guard members who reside on base from the same opportunities. The data currently available shows that Kodiak Coast Guard Base residents have a history of engaging in salmon fisheries and other subsistence practices in the Kodiak Islands since at least the early 1990s. 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 salmon declines. Changing the area descriptors for the customary and traditional use determination zones within the Kodiak Islands should clarify the areas under regulation and reduce administrative complexity. OSM looks forward to hearing the discussion and recommendation of the Regional Advisory Council.

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| <b>FP23–05b Executive Summary</b>  |  |
|--|--|
| <b>General Description</b>   | FP23-05b requests a change in the description of a Kodiak Island fishing area. <i>Submitted by: Kodiak National Wildlife Refuge.</i>   |
| <b>Proposed Regulation</b>   | <p>§ __.27(e)(9)(v)(A) Kodiak Area</p> <p><i>The annual limit for a subsistence salmon fishing permit holder is as follows:</i></p> <p style="padding-left: 40px;"><i>(A) In the <del>Federal public waters of Kodiak Island</del>, <b>road-accessible Zone (Northeastern Kodiak Island)</b>, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within 1 mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained upon request.</i></p> <p style="padding-left: 40px;"><i>(B) In the remainder of the Kodiak Area not described in paragraph (e)(9)(v)(A) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Support</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |

**DRAFT STAFF ANALYSIS**  
**FP23-05b**

**ISSUES**

FP23-05b, submitted by the Kodiak National Wildlife Refuge, requests a change in the description of a Kodiak Island fishing area.

**DISCUSSION**

The proponents state that this description change is necessary to clarify the area under regulation and to reduce confusion for the public and Kodiak National Wildlife Refuge staff.

FP23-05a, also submitted by the Kodiak National Wildlife Refuge, requests adding residents of the Kodiak Coast Guard Base to the Customary and Traditional Use Determination for salmon for the Kodiak Area. The proponents are also requesting to change the area descriptors for the customary and traditional use determination areas within the Kodiak Area.

**Existing Federal Regulation**

§\_\_\_\_.27(e)(9)(v)(A) Kodiak Area

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

*(A) In the Federal public waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within 1 mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained upon request.*

*(B) In the remainder of the Kodiak Area not described in paragraph (e)(9)(v)(A) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.*

**Proposed Federal Regulation**

§\_\_\_\_.27(e)(9)(v)(A) Kodiak Area

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

*(A) In the ~~Federal public waters of Kodiak Island~~, **road-accessible Zone (Northeastern Kodiak Island)**, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands,*



*and the salt waters bordering this area within 1 mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained upon request.*

*(B) In the remainder of the Kodiak Area not described in paragraph (e)(9)(v)(A) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.*

### **Existing State Regulation**

#### *5 AAC 64.001 Application of this chapter*

*This chapter applies to sport fishing in the Kodiak Area*

#### *5 AAC 64.005 Description of the Kodiak Area*

*(1) Kodiak Road Zone: all fresh waters of Kodiak Island that are east of a line extending south from Crag Point on the west side of Anton Larsen Bay to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and including all salt waters inside or landward of the following lines:*

*(A) Anton Larsen Bay south and east of a line from Crag Point at 57\_ 52.83' N. lat., 152\_ 40.42' W. long., to Kizhuyak Point at 57\_ 55.04' N. lat., 152\_ 38.13' W. long.;*

*(B) from the outermost points of Shakmanof Cove at 57\_ 55.31' N. lat., 152\_ 36.96' W. long., to 57\_ 55.55' N. lat., 152\_ 35.36' W. long.;*

*(C) from the easternmost point of Shakmanof Cove at 57\_ 55.55' N. lat., 152\_ 35.36' W. long., to Otmeloi Point at 57\_ 54.56' N. lat., 152\_ 30.95' W. long.;*

*(D) from the Course Point near Split Rock at 57\_ 53.53' N. lat., 152\_ 27.94' W. long., to Termination Point at 57\_ 51.37' N. lat., 152\_ 24.11' W. long.;*

*(E) from Termination Point at 57\_ 51.37' N. lat., 152\_ 24.11' W. long., to Miller Point at 57\_ 50.24' N. lat., 152\_ 21.16' W. long.;*

*(F) from Miller Point at 57\_ 50.24' N. lat., 152\_ 21.16' W. long., to Spruce Cape at 57\_ 49.55' N. lat., 152\_ 19.62' W. long.;*

*(G) from Spruce Cape at 57\_ 49.55' N. lat., 152\_ 19.62' W. long., to the northern tip of Woody Island at 57\_ 47.82' N. lat., 152\_ 19.61' W. long.;*

(H) from the southern tip of Woody Island at 57\_ 45.63' N. lat., 152\_ 21.18' W. long., to Cliff Point at 57\_ 43.51' N. lat., 152\_ 26.62' W. long.;

(I) from Cliff Point at 57\_ 43.51' N. lat., 152\_ 26.62' W. long., to Broad Point at 57\_ 41.27' N. lat., 152\_ 23.77' W. long.;

(J) from Broad Point at 57\_ 41.27' N. lat., 152\_ 23.77' W. long., to the western tip of Cape Chiniak at 57\_ 37.47' N. lat., 152\_ 11.75' W. long.;

(K) from Cape Greville at 57\_ 35.31' N. lat., 152\_ 9.37' W. long., to the eastern tip of Narrow Cape at 57\_ 25.92' N. lat., 152\_ 19.11' W. long.;

(L) from the southernmost part of Narrow Cape at 57\_ 25.28' N. lat., 152\_ 20.98' W. long., to Pasagshak Point at 57\_ 25.27' N. lat., 152\_ 29.00' W. long.;

(M) north and east of a line from the outermost points of Pasagshak Bay at 57\_ 25.27' N. lat., 152\_ 29.00' W. long., to 57\_ 25.98' N. lat., 152\_ 31.13' W. long.;

(N) from the westernmost point of Pasagshak Bay at 57\_ 25.98' N. lat., 152\_ 31.13' W. long., to Shark Point at 57\_ 26.77' N. lat., 152\_ 31.18' W. long.;

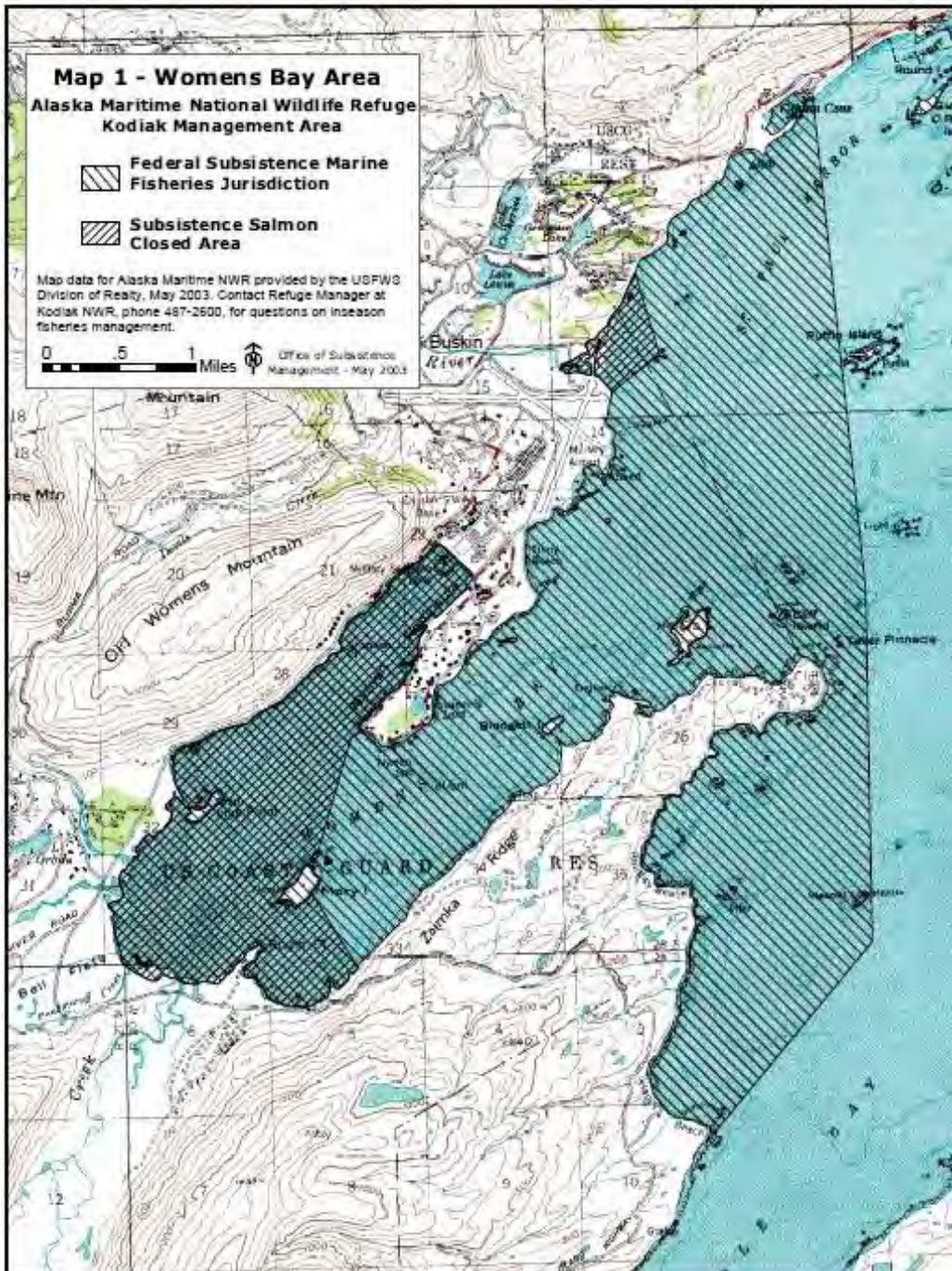
(O) from Shark Point at 57\_ 26.77' N. lat., 152\_ 35.18' W. long., to the westernmost point of Portage Bay at 57\_ 27.98' N. lat., 152\_ 41.14' W. long.;

(P) from the westernmost point of Portage Bay at 57\_ 27.98' N. lat., 152\_ 41.14' W. long., to the westernmost point of Saltery Cove at 57\_ 29.62' N. lat., 152\_ 48.160' W. long.;

(2) Kodiak Remote Zone: all other waters of the Kodiak Area that are not within the Kodiak Road Zone.

### **Extent of Federal Public Lands/Waters**

For purposes of this analysis, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters comprise marine waters within Womens Bay (**Figure 1**). There are no inland Federal Public Waters in the Kodiak road system area.



**Figure 1.** Womens Bay Federal jurisdiction marine waters in the Kodiak Area.

**Customary and Traditional Use Determinations**

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

Residents of the Kodiak Area have a customary and traditional use determination for fish other than rainbow/steelhead trout and salmon in the Kodiak Area.

### **Regulatory History**

This area description was adopted from the State at the outset of Federal subsistence fisheries management. There have been no regulatory changes associated with area descriptions in the Kodiak Area.

### **Current Events**

The proponent of this proposal has also submitted a request to add residents of the Kodiak Coast Guard Base to the Customary and Traditional Use Determination for salmon for the Kodiak Area. As part of that request, the proponent wishes to change the area descriptors for the customary and traditional use determination zones within the Kodiak Area to clarify the areas in regulation and reduce administrative complexity for anyone interpreting the regulations. These changes are analyzed in FP23-05a.

### **Biological Background**

The primary subsistence fishery in this area targets Buskin River Sockeye Salmon in the marine waters of Womens Bay (**Figure 1**).

### **Effects of the Proposal**

The proposed amendment to the area description would provide a degree of clarity to Federally qualified subsistence users and reduce confusion for anyone interpreting Federal subsistence fishing regulations in this area. The proposed amendment would have no other effects.

### **OSM PRELIMINARY CONCLUSION**

**Support** Proposal FP23-05b

### **Justification**

This area description change is likely to clarify the area specified in regulations and would cause no negative impact to Federally qualified subsistence users or the fisheries resource.

| <b>FP23–06a Executive Summary</b>  |   |
|--|---|
| <b>General Description</b>   | Fisheries Proposal FP23-06a requests to rescind the closure to harvest salmon by Federally qualified subsistence users in the closed marine waters of Women’s Bay and implement a new rod and reel fishery that matches current State sport fish regulations.   |
| <b>Proposed Regulation</b>   | <p><b>Kodiak Area—Salmon</b></p> <p>§ __.27(e)(9)</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p><i>(A) Womens Bay closed waters—All waters inside a line from the tip of the Nyman Peninsula (57°43.23'North latitude, 152°31.51' West longitude), to the northeastern tip of Mary's Island (57°42.40' North latitude, 152°32.00' West longitude), to the southeastern shore of Womens Bay at 57°41.95' North latitude, 152°31.50'West longitude. <b>However, you may take salmon for subsistence purposes, by rod and reel only. Season dates and harvest limits shall be the same as for taking fish under State of Alaska sport fishing regulations.</b></i></p> <p><i>(v) The annual limit for a subsistence salmon fishing permit holder is as follows:</i></p> <p><i>(B) In the remainder of the Kodiak Area not described in paragraphs (e)(9)(iii)(A) and (e)(9)(v)(B) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Support</b>  |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |   |
| <b>Interagency Staff Committee Comments</b>                                  |   |
| <b>ADF&amp;G Comments</b>  |   |
| <b>Written Public Comments</b>   | <b>None</b>   |

**DRAFT STAFF ANALYSIS  
FP23-06a**

**ISSUES**

Fisheries proposal FP23-06a, which is a parallel proposal to a fisheries closure review FCR23-15, was submitted by *Rebecca Skinner* and requests that the closed Federal public waters of Women’s Bay be rescinded and the regulations modified to allow the use of rod and reel to harvest salmon. Harvest limits would match State sport fishing regulations.

**DISCUSSION**

The proponent states that currently Federally qualified subsistence users are prohibited from harvesting fish in an area that already allows sport fishing harvest under state regulations in the closed waters of Women’s Bay. They further say that this change would provide a priority for Federally qualified subsistence users and align regulations so there is less confusion on who can participate in the fishery.

**Existing Federal Regulation**

**Kodiak Area—Salmon**

§ \_\_.27(e)(9)

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

\*\*\*

*(A) Womens Bay closed waters—All waters inside a line from the tip of the Nyman Peninsula (57°43.23'North latitude, 152°31.51' West longitude), to the northeastern tip of Mary's Island (57°42.40' North latitude, 152°32.00' West longitude), to the southeastern shore of Womens Bay at 57°41.95' North latitude, 152°31.50'West longitude.*

**Proposed Federal Regulation**

**Kodiak Area—Salmon**

§ \_\_.27(e)(9)

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

*(A) Womens Bay closed waters—All waters inside a line from the tip of the Nyman Peninsula (57°43.23' North latitude, 152°31.51' West longitude), to the northeastern tip of Mary's Island (57°42.40' North latitude, 152°32.00' West longitude), to the southeastern shore of Womens Bay at 57°41.95' North latitude, 152°31.50' West longitude. However, you may take salmon for subsistence purposes, by rod and reel only. Season dates and harvest limits shall be the same as for taking fish under State of Alaska sport fishing regulations.*

\*\*\*

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

\*\*\*

*(B) In the remainder of the Kodiak Area not described in paragraphs (e)(9)(iii)(A) and (e)(9)(v)(B) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.*

\*\*\*

## **Existing State Subsistence Regulation**

### **5 AAC 01.525**

*The following waters are closed to the subsistence taking of salmon;*

*(1) all waters of Near Island Channel that are bounded by a line from a point on Kodiak Island near Delarov Street at 57\_ 47.62' N. lat., 152\_ 22.78' W. long., to the northernmost point of Holiday Island at 57\_ 47.27' N. lat., 152\_ 22.60' W. long., to a point at the northernmost tip of Near Island at 57\_ 47.30' N. lat., 152\_ 23.16' W. long., to a point at the northernmost end of Uski Island south of the Dog Bay small boat harbor entrance at 57\_ 46.92' N. lat., 152\_ 24.56' W. long., and north to a point at the tip of the breakwater on Kodiak Island at 57\_ 47.08' N. lat., 152\_ 24.60' W. long; in addition, from August 7 through September 30, all waters of Mill Bay and those waters bounded by a line from a point at Spruce Cape at 57\_ 49.33' N. lat., 152\_ 19.48' W. long., to the northernmost point of Woody Island at 57\_ 47.91' N. lat., 152\_ 19.85' W. long., to a point at the northernmost point of Holiday Island at 57\_ 47.27' N. lat., 152\_ 22.60' W. long., and to a point on Kodiak Island near Delarov Street at 57\_ 47.62' N. lat., 152\_ 22.78' W. long.;*

## **Existing State Sport Fish Regulation**

### **5 AAC 64.022**

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual,*

*and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

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

*(A) in fresh waters:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five king salmon; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; king salmon less than 20 inches in length caught in fresh water do not count toward the annual limit;*

*(B) in salt waters: bag and possession limit of two fish; no size limit; no annual limit; a harvest record is not required;*

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

*(A) 20 inches or greater in length; bag and possession limit of five fish, of which only two may be coho salmon and only two may be sockeye salmon;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish*

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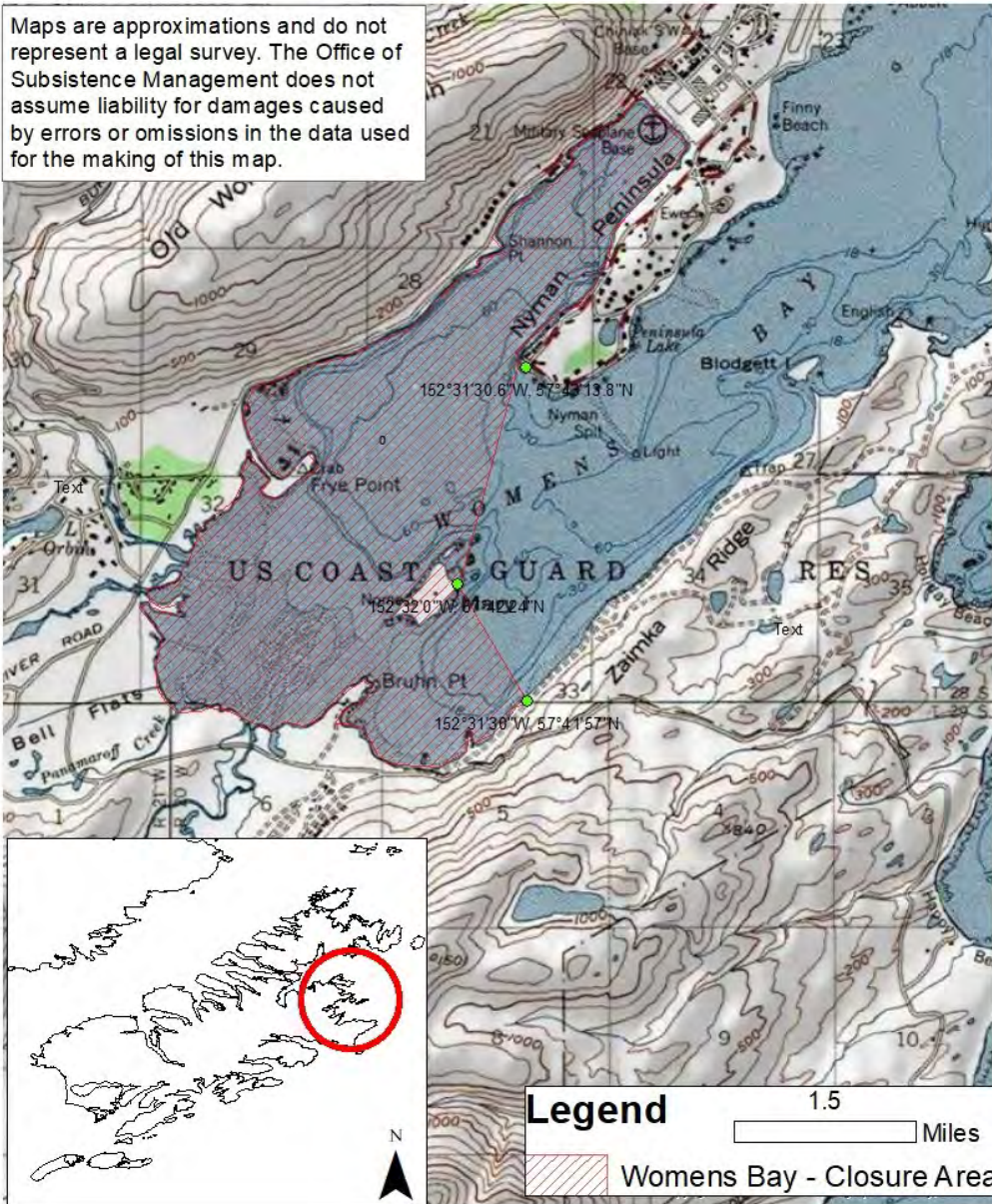
*(8) in the Kodiak Road Zone, from September 16 - December 31, the bag and possession limit for coho salmon, 20 inches or greater in length, is one fish, except that in the following stocked waters the bag and possession limit for coho salmon, 20 inches or greater in length, is two fish:*

### **Extent of Federal Public Lands/Waters**

For the purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3 This proposal pertains to Federal marine waters of the Pacific Ocean enclosed by the boundaries of Women’s Bay (**Figure 1**).



## Federal Closure Area Marine Waters - Womens Bay



**Figure 1.** Closed Federal marine public waters in Women’s Bay, Kodiak Island.

### Customary and Traditional Use Determinations

Rural residents of Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base have a customary and traditional use determination for salmon for the Kodiak Area except the Mainland District.

## Regulatory History

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations which previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner and has not been subsequently modified.

Fisheries emergency special actions were implemented for Women's Bay and Buskin River in recent history due to poor returns of salmon to the Buskin River drainage. This includes Emergency Special Action 9-SS-01-22 in 2022 that closed the take of Sockeye Salmon (*Oncorhynchus nerka*) by all users in the open marine water area, which was later rescinded under Emergency Special Action 9-RS-02-22. Emergency Special Action 9-RS-01-21 in 2021, which closed the take of Sockeye Salmon to all users in the Federal public waters of Women's Bay, and 9-SS-02-19 in 2019, which closed all Federal public waters at the mouth of the Buskin River in the Kodiak District to the take of Coho Salmon (*Oncorhynchus kisutch*).

## Current Events Involving the Species

Fisheries closure review FCR23-15, for the same Womens Bay closure area under consideration in this proposal, is also under review during this regulatory cycle.

## Biological Background

There are currently no abundance estimates for salmon returning to Women's Bay. The Buskin River is a nearby river that monitors adult salmon. Annual Sockeye Salmon escapement returning to the Buskin River is estimated through a weir from May through July. The majority of fish returning to the system pass through a weir located at the outlet of Buskin Lake and the Catherine-Louise Lake weir is no longer in operation. Buskin Lake has a Sockeye Salmon escapement goal of 5,000 to 8,000 fish (Anderson et al. 2019). The Buskin River has seen both very strong and relatively weak Sockeye and Coho salmon runs over the past 10 years (**Table 1**). The 2021 escapement of 2,330 Sockeye Salmon was the lowest return of Sockeye Salmon in the past 10-year period (2012 – 2021). During 2013, one of the highest passages was recorded (16,178 fish) for that same 10-year period. In the most recent 5-year period, two years did not meet escapement for Sockeye Salmon (2018 and 2021).

The Buskin River supports one of the historically most productive Coho Salmon stocks in the Kodiak Management Area (Polum et al. 2019). Coho Salmon typically start returning in early to mid-August and continue into the fall. The escapement is monitored by a weir about a mile above the river mouth. The Buskin River has a Coho Salmon escapement goal of 4,700-9,600 fish. From 2012 to 2021, weir counts of Coho Salmon ranged from a high of 8,413 fish in 2014 to a low of 630 fish in 2020 (**Table 1**). During the 2020 season, the low count of 630 fish was considered a partial count due to weir being inoperable during mid-season. Other years such as 2015 were considered only partial weir counts due to a similar situation. These weir counts are not the total escapements and some years do not include the harvest data. The average annual weir count was 4,776 fish during this 10-year period.

**Table 1.** Annual weir counts of Sockeye and Coho salmon in the Buskin River from 2012 to 2021 with 10-year averages.

| <b>Year</b>    | <b>Sockeye</b> | <b>Coho</b>  |
|----------------|----------------|--------------|
| 2012           | 8,565          | 4,295        |
| 2013           | 16,178         | 5,765        |
| 2014           | 13,976         | 8,413        |
| 2015           | 8,719          | 4,271        |
| 2016           | 11,584         | 2,488        |
| 2017           | 7,222          | 5,559        |
| 2018           | 4,284          | 2,883        |
| 2019           | 12,297         | 5,537        |
| 2020           | 7,741          | 630          |
| 2021           | 2,330          | 7,914        |
| <b>Average</b> | <b>9,290</b>   | <b>4,776</b> |

### **Cultural Knowledge and Traditional Practices**

The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq; the Koniag/Qikertarmiut; and Eastern European, Asian, and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence resources have been marine animals, shellfish, near-shore fisheries, sea or littoral birds and their eggs, and salmon harvested primarily in spawning areas (Clark 1998: 176). Salmon remain one of the primary components of subsistence diets for rural residents in this region (Wolf and Walker 1987, Fall and Walker 1993, Marchioni et al. 2016). Historically, some of the most-utilized harvest areas for subsistence salmon in the Kodiak archipelago have been the Buskin and Pasagshak Rivers located on the northern end of Kodiak Island and the southeast side of Afognak Island at Litnik (Anderson et al. 2016, Brown et al. 2021).

Today, the Kodiak Island Borough has a population of 13,383 residents (US Census Bureau 2020). The most recent population estimate for Women’s Bay CDP is 743 residents (US Census 2020). Residents throughout the Kodiak Islands currently harvest salmon using subsistence gillnets and seines, rod and reel, and removal of salmon from commercial catch for home use (Marchioni et al. 2016). Access for salmon harvesting is often obtained through social networks, and salmon harvests are regularly shared between community members (Marchioni et al. 2016). Harvested salmon are typically dried, smoked, or canned to preserve the resource for use out of season (Marchioni et al. 2016). These subsistence practices form a key basis of cultural identity, family life, and community well-being in the area (Fall 1999). When salmon are scarce, area residents must rely upon secondary subsistence resources and/or turn to expensive store-bought foods (Marchioni et al. 2016). According to the most recent Alaska subsistence and personal use fisheries report (Brown et al. 2021: 168), “The total reported subsistence salmon harvest for the Kodiak Area in 2018 was 17,459 fish, less than the reported 2017 harvest and well below the recent 5-year (2013–2017) and 10-year (2008–2017) averages of 26,390 salmon and 28,364 salmon, respectively.” The significant reductions in salmon stock available for subsistence

harvest in recent years have caused increasing concerns about food security and the maintenance of rural lifestyles in the region (KARAC 2021).

## Harvest History

Federal and State subsistence users primarily harvest Sockeye and Coho salmon in marine waters near the mouth of the Buskin River. However, the marine waters adjacent to the mouth of the Buskin River are closed under both Federal and State subsistence regulation to protect salmon as they migrate through the estuary. The Buskin River supports the main runs of Sockeye and Coho salmon in Women’s Bay. Large subsistence and sport fish harvests occur on these returning stocks. Historically, the marine waters beyond the closure are the single largest source of subsistence salmon harvested in Federal waters within the Kodiak-Aleutians Region (Witteveen et al. 2020). The Buskin River is also one of the most popular sport fishing locations because of road access and proximity to the City of Kodiak. Both Sockeye and Coho salmon are targeted in the sport fishery. In addition, commercial fisheries in the marine waters surrounding Kodiak Island also harvest a small number of Buskin River salmon (Anderson et al. 2019). Fish harvests from the Buskin River generally fluctuate with the escapement, but due to its proximity to the City of Kodiak, the Buskin River continues to support both subsistence and sport fishing even in years with small returns. The Sockeye Salmon fisheries occurs primarily in June due to the early run timing.

### *Subsistence Harvest of Coho and Sockeye Salmon*

Between 2016 and 2020, the annual subsistence harvests for Sockeye Salmon have ranged from a low in 2018 of 473 to 4,916 in 2017, with an annual average of 3,891. Coho Salmon harvest varies drastically from year to year with a low harvest of 300 fish (6% of total harvest) and a high of 1,107 fish (69% of total harvest) (**Table 2**). Total number of permits issued for subsistence harvest has declined from 2016 to 2020.

**Table 2.** Buskin River drainage reported subsistence harvest by species 2016-2020 (Witteveen et al. 2020). Additional harvest of Chinook, Pink and Chum salmon occur and are not shown in this table. Sockeye and Coho salmon makeup 95% of the total harvest.

| Year           | # of       | Sockeye      | Sockeye    | Coho       | Coho       |
|----------------|------------|--------------|------------|------------|------------|
| Year           | Permits    | # Fish       | % Total    | # Fish     | % Total    |
| 2016           | 255        | 4,743        | 89%        | 496        | 9%         |
| 2017           | 242        | 4,916        | 93%        | 300        | 6%         |
| 2018           | 108        | 473          | 29%        | 1,107      | 69%        |
| 2019           | 111        | 836          | 62%        | 340        | 25%        |
| 2020           | 163        | 1,620        | 64%        | 760        | 30%        |
| <b>Average</b> | <b>281</b> | <b>3,891</b> | <b>67%</b> | <b>865</b> | <b>28%</b> |

### *Sport Fish Harvest of Coho Salmon*

Between 2010 and 2018, the annual sport harvest of Coho Salmon in the Buskin River have ranged from 1,793 to 5,388 with an average annual harvest of 3,293 fish (**Table 3**).

**Table 3.** Buskin River Coho Salmon sport fishery harvest 2010-2018 (Polum et al. 2019).

| Year           | Sport Harvest |
|----------------|---------------|
| 2010           | 2,847         |
| 2011           | 3,640         |
| 2012           | 1,926         |
| 2013           | 4,926         |
| 2014           | 5,388         |
| 2015           | 4,889         |
| 2016           | 1,895         |
| 2017           | 2,337         |
| 2018           | 1,793         |
| <b>Average</b> | <b>3,293</b>  |

### Effects of the Proposal

If fisheries proposal FP23-06a is adopted, the closure would be rescinded and Federally qualified subsistence users would have additional opportunity to harvest fish closer to town in the nearshore marine waters of Women’s Bay. It is unlikely that harvest rates would increase if this closure were rescinded. Rural residents of Kodiak are already harvesting salmon under State sport fish regulations and this change would allow Kodiak residents to choose which fishery they would like to participate in.

If fisheries proposal FP23-06a is not adopted, the closure would remain and there would be continued inconsistency between State sport, State subsistence, and Federal subsistence regulations. Federally qualified subsistence users would not be eligible for priority consumptive use in times of resource restrictions.

## OSM PRELIMINARY CONCLUSION

### Support Proposal FP23-06a

#### Justification

Section 802(2) of ANILCA requires that subsistence uses by rural residents of Alaska shall by “the priority consumption uses of all such resources on the public lands of Alaska”. Currently, Federally qualified subsistence users are not allowed to harvest salmon under Federal subsistence regulations in the same Federal public waters where State sport fish harvest is allowed. Aligning State and Federal regulations would prevent Federal subsistence regulations from being more restrictive than State sport fishing regulations, and harvests levels would likely remain unaffected as Federally qualified users already participate in the State sport fishery.

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| <b>FCR23–15 Executive Summary</b>  |  |
|--|--|
| <b>General Description</b>   | FCR23-15 is a routine review of the closure to harvest of salmon by Federally qualified subsistence users in the closed marine waters of Women’s Bay.  |
| <b>Current Regulation</b>  | <p><b><i>Kodiak Area – Salmon</i></b></p> <p>§ __.27(e)(9)</p> <p>***</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p style="padding-left: 40px;"><i>(A) Womens Bay closed waters—All waters inside a line from the tip of the Nyman Peninsula (57°43.23' North latitude, 152°31.51' West longitude), to the northeastern tip of Mary's Island (57°42.40' North latitude, 152°32.00' West longitude), to the southeastern shore of Womens Bay at 57°41.95' North latitude, 152°31.50' West longitude.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |



**FEDERAL FISHERIES CLOSURE REVIEW  
FCR23-15**

**Issue**

FCR23-15 is a standard review of a Federal fishery closure to salmon fishing in Women's Bay. It is the Federal Subsistence Board's (Board) 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. Parallel proposal FP23-06a was submitted by Kodiak resident, Rebecca Skinner to rescind the closure and to implement a new rod and reel fishery that would match the State sport fish regulations.

**Closure Location:** Kodiak Area – Salmon

**Current Federal Regulation**

*Kodiak Area – Salmon*

*§\_\_.27(e)(9)*

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

*(A) Womens Bay closed waters—All waters inside a line from the tip of the Nyman Peninsula (57°43.23'North latitude, 152°31.51' West longitude), to the northeastern tip of Mary's Island (57°42.40' North latitude, 152°32.00' West longitude), to the southeastern shore of Womens Bay at 57°41.95' North latitude, 152°31.50'West longitude.*

**Closure Dates:** Year-round

**Current State Subsistence Regulation**

*Kodiak Area – Salmon*

*5 AAC 01.525*

*The following waters are closed to the subsistence taking of salmon;*

*(1) all waters of Near Island Channel that are bounded by a line from a point on Kodiak Island near Delarov Street at 57\_ 47.62' N. lat., 152\_ 22.78' W. long., to the northernmost point of Holiday Island at 57\_ 47.27' N. lat., 152\_ 22.60' W. long., to a point at the northernmost tip of Near Island at 57\_ 47.30' N. lat., 152\_ 23.16' W. long., to a point at the northernmost end of*



*Uski Island south of the Dog Bay small boat harbor entrance at 57\_ 46.92' N. lat., 152\_ 24.56' W. long., and north to a point at the tip of the breakwater on Kodiak Island at 57\_ 47.08' N. lat., 152\_ 24.60' W. long; in addition, from August 7 through September 30, all waters of Mill Bay and those waters bounded by a line from a point at Spruce Cape at 57\_ 49.33' N. lat., 152\_ 19.48' W. long., to the northernmost point of Woody Island at 57\_ 47.91' N. lat., 152\_ 19.85' W. long., to a point at the northernmost point of Holiday Island at 57\_ 47.27' N. lat., 152\_ 22.60' W. long., and to a point on Kodiak Island near Delarov Street at 57\_ 47.62' N. lat., 152\_ 22.78' W. long.;*

## **Current State Sport Fish Regulations**

### ***Kodiak Area – Salmon***

#### ***5 AAC 64.022***

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual, and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

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

*(A) in fresh waters:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five king salmon; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; king salmon less than 20 inches in length caught in fresh water do not count toward the annual limit;*

*(B) in salt waters: bag and possession limit of two fish; no size limit; no annual limit; a harvest record is not required;*

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

*(A) 20 inches or greater in length; bag and possession limit of five fish, of which only two may be coho salmon and only two may be sockeye salmon;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish*

**\*\*\***

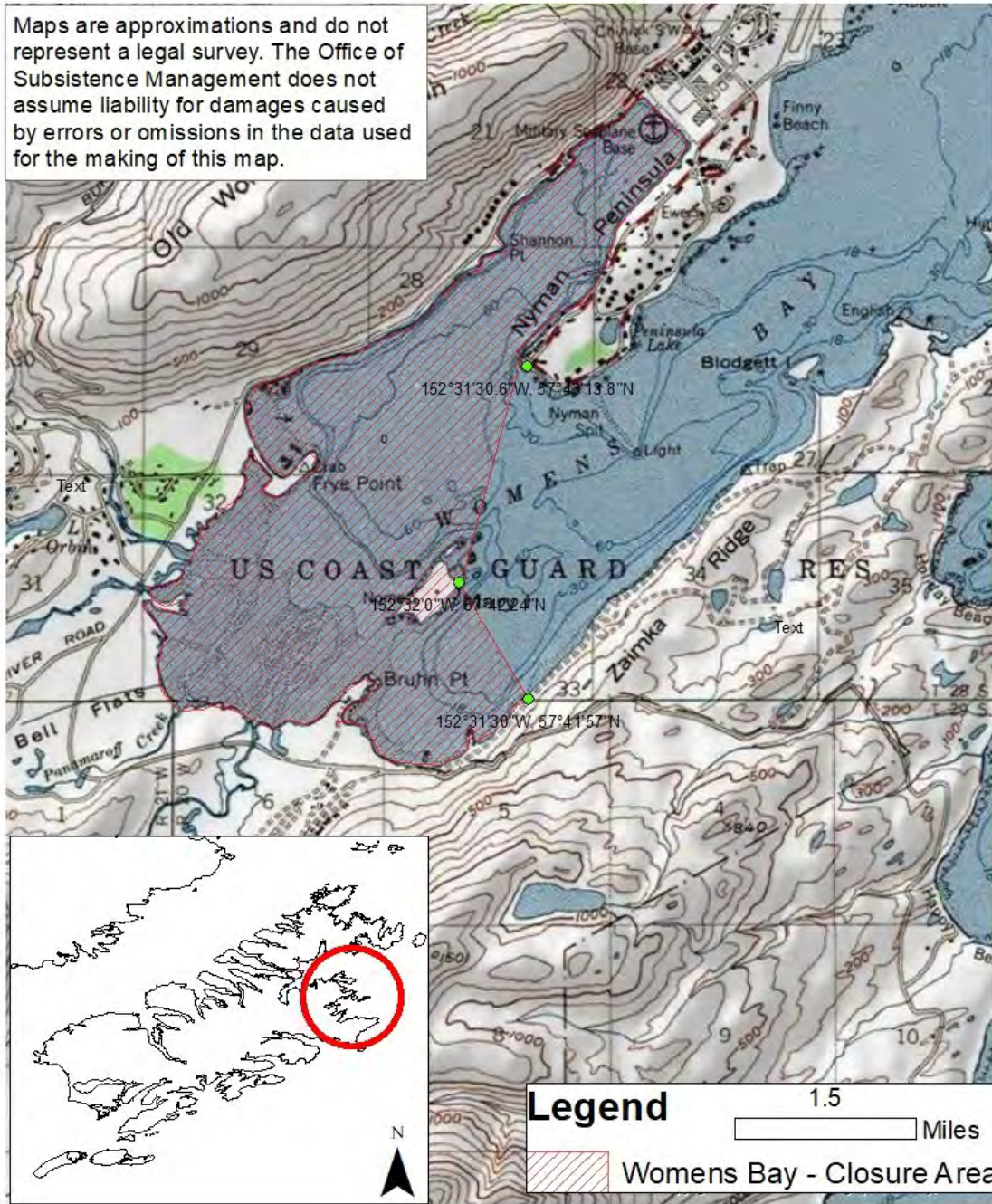
*(8) in the Kodiak Road Zone, from September 16 - December 31, the bag and possession limit for coho salmon, 20 inches or greater in length, is one fish, except that in the following stocked waters the bag and possession limit for coho salmon, 20 inches or greater in length, is two fish:*

**Regulatory Year Initiated:** 1992

**Extent of Federal Public Lands/Waters**

For the purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3 This proposal pertains to Federal marine waters inside a line from the tip of the Nyman Peninsula (57°43.23'North latitude, 152°31.51' West longitude), to the northeastern tip of Mary's Island (57°42.40' North latitude, 152°32.00' West longitude), to the southeastern shore of Women's Bay at 57°41.95' North latitude, 152°31.50'West longitude. **(Figure 1)**.

## Federal Closure Area Marine Waters - Womens Bay



**Figure 1.** Closed Federal marine public waters in Women’s Bay, Kodiak Island.

### Customary and Traditional Use Determination

Rural residents of Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base have a customary and traditional use determination for salmon for the Kodiak Area except the Mainland District.

## **Regulatory History**

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations which previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner, and has not been subsequently modified.

## **Current Events Involving the Species**

A parallel fisheries proposal FP23-06a was submitted by Kodiak resident Rebecca Skinner that seeks to rescind the Buskin River closure and modify the regulations to allow the use of rod and reel to harvest salmon. Harvest limits would remain the same as State sport fish regulations.

Fisheries emergency special actions were implemented for Women's Bay and Buskin River in recent history due to poor returns of salmon to the Buskin River drainage. This includes 9-SS-01-22 in 2022 and 9-RS-01-21 in 2021, which closed the take of Sockeye Salmon (*Oncorhynchus nerka*) to all users in the Federal public waters of Women's Bay, and 9-SS-02-19 in 2019, which closed all Federal public waters at the mouth of the Buskin River in the Kodiak Area to the take of Coho Salmon (*Oncorhynchus kisutch*).

## **Closure last reviewed**

There have been no previous reviews of this closure.

## **Justification for Original Closure**

There is no Federal Subsistence Board justification for the original closure as it was incorporated from the State subsistence fishing regulations.

## **Council Recommendation for Original Closure**

N/A

## **State Recommendation for Original Closure**

N/A

## **Biological Background**

There are no current annual estimates of total salmon populations to Women's Bay; however, annual Sockeye Salmon escapement returning to the nearby Buskin River is estimated through a weir from May through July. The majority of fish returning to the system pass through a weir located at the outlet of Buskin Lake. The Catherine-Louise Lake weir is no longer in operation. The Buskin Lake system has a Sockeye Salmon escapement goal of 5,000 to 8,000 fish (Anderson et al. 2019). The Buskin

River has seen both very strong and relatively weak Sockeye and Coho salmon runs over the past 10 years (**Table 1**). The 2021 escapement of 2,330 Sockeye Salmon was the lowest return of Sockeye Salmon in the past 10-year period (2012 – 2021). During 2013, one of the highest passages was recorded (16,178 fish) for that same 10-year period. In the most recent 5-year period, two years did not meet escapement for Sockeye Salmon (2018 and 2021).

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Between 2016 and 2020, the annual subsistence harvests for Sockeye Salmon have ranged from 473 to 4,916, with a low subsistence harvest of 473 fish in 2018, and an annual average of 3,891. Coho Salmon harvest varies drastically from year to year with a low harvest of 300 fish (6% of total harvest)

and a high of 1,107 fish (69% of total harvest) (**Table 2**). Total number of permits issued for subsistence harvest has declined from 2016 to 2020.

**Table 2.** Buskin River drainage reported subsistence harvest by species 2016-2020 (Witteveen et al. 2020). Additional harvest of Chinook, Pink and Chum salmon occur and are not shown in this table. Sockeye and Coho salmon makeup 95% of the total harvest.

| Year           | # of       | Sockeye      | Sockeye    | Coho       | Coho       |
|----------------|------------|--------------|------------|------------|------------|
| Year           | Permits    | # Fish       | % Total    | # Fish     | % Total    |
| 2016           | 255        | 4,743        | 89%        | 496        | 9%         |
| 2017           | 242        | 4,916        | 93%        | 300        | 6%         |
| 2018           | 108        | 473          | 29%        | 1,107      | 69%        |
| 2019           | 111        | 836          | 62%        | 340        | 25%        |
| 2020           | 163        | 1,620        | 64%        | 760        | 30%        |
| <b>Average</b> | <b>281</b> | <b>3,891</b> | <b>67%</b> | <b>865</b> | <b>28%</b> |

#### *Sport Fish Harvest of Coho Salmon*

Between 2010 and 2018, the annual sport harvest of Coho Salmon in the Buskin River have ranged from 1,793 to 5,388 with an average annual harvest of 3,293 fish (**Table 3**).

**Table 3.** Buskin River Coho Salmon sport fishery harvest 2010-2018 (Polum et al. 2019).

| Year           | Sport Harvest |
|----------------|---------------|
| 2010           | 2,847         |
| 2011           | 3,640         |
| 2012           | 1,926         |
| 2013           | 4,926         |
| 2014           | 5,388         |
| 2015           | 4,889         |
| 2016           | 1,895         |
| 2017           | 2,337         |
| 2018           | 1,793         |
| <b>Average</b> | <b>3,293</b>  |

#### **Effects**

If the closure is rescinded, Federally qualified subsistence users would have additional opportunity to harvest fish closer to town in the nearshore marine waters. This additional opportunity could result in slightly higher harvests rates given the area wide regulations allowing the use of gillnet, seine and rod and reel, particularly during days of inclement weather where the nearshore waters are slightly more protected and allow for harvesting fish when the outer gulf waters are too windy. To conserve fish populations, the Federal in-season manager could issue a special action to set provisions for the fishery, such as stipulating gear types and setting conservative harvest limits.



If the closure is retained, sport of salmon would continue while Federally qualified subsistence users would be prohibited from harvesting salmon under Federal subsistence regulations in this location. There is opportunity for harvest outside of these closed waters.

**OSM PRELIMINARY CONCLUSION**

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

The modified regulation should read:

***Kodiak Area – Salmon***

**§     .27(e)(9)**

*(iii) You may not subsistence fish for salmon in the following locations:*

~~(A) Womens Bay closed waters—All waters inside a line from the tip of the Nyman Peninsula (57°43.23' North latitude, 152°31.51' West longitude), to the northeastern tip of Mary's Island (57°42.40' North latitude, 152°32.00' West longitude), to the southeastern shore of Womens Bay at 57°41.95' North latitude, 152°31.50' West longitude.~~

**Justification**

These Womens Bay waters are currently closed to the harvest of salmon by Federally qualified subsistence users but remain open to other uses. Section 802(2) of ANILCA requires that subsistence uses by rural residents of Alaska shall by “the priority consumption uses of all such resources on the public lands of Alaska”. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries. The in-season manager can use this authority to manage the fishery in the short term. Harvests levels would likely remain unaffected as Federally qualified subsistence users already participate in the State sport fishery.

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| <b>FP23–06b Executive Summary</b>  |   |
|--|---|
| <b>General Description</b>   | Fisheries Proposal FP23-06b requests to rescind the closure to harvest salmon by Federally qualified subsistence users in the closed marine waters of Buskin River and implement a new rod and reel fishery that matches current State sport fish regulations.  |
| <b>Proposed Regulation</b>   | <p><b>Kodiak Area—Salmon</b></p> <p>§ __.27(e)(9)</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p><i>(B) Buskin River closed waters—All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude. <b>However, you may take salmon for subsistence purposes, by rod and reel only. Season dates and harvest limits shall be the same as for taking fish under State of Alaska sport fishing regulations.</b></i></p> <p><i>(v) The annual limit for a subsistence salmon fishing permit is as follows:</i></p> <p><b>(B) In the remainder of the Kodiak Area not described in paragraphs (e)(9)(iii)(A) and (e)(9)(v)(B) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.</b></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Support</b>  |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |   |
| <b>Interagency Staff Committee Comments</b>                                  |   |
| <b>ADF&amp;G Comments</b>  |   |
| <b>Written Public Comments</b>   | <b>None</b>   |

**DRAFT STAFF ANALYSIS  
FP23-06b**

**ISSUES**

Fisheries proposal FP23-06b, which is a parallel proposal to a fisheries closure review FCR21-16, was submitted by *Rebecca Skinner* and requests that the closed Federal public marine waters of Buskin River be rescinded and the regulations modified to allow the use of rod and reel to harvest salmon. Harvest limits would match State sport fishing regulations.

**DISCUSSION**

The proponent states that currently Federally qualified subsistence users are prohibited from harvesting fish in an area that already allows State sport fish harvest in the closed marine waters of Buskin River. They further say that this change would provide a priority for Federally qualified subsistence users and align regulations so there is less confusion on who can participate in the fishery.

**Existing Federal Regulation**

**Kodiak Area—Salmon**

**§\_\_.27(e)(9)**

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

\*\*\*

*(B) Buskin River closed waters—All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude.*

**Proposed Federal Regulation**

**Kodiak Area—Salmon**

**§\_\_.27(e)(9)**

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

\*\*\*

*(B) Buskin River closed waters—All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude. **However, you may take salmon for subsistence purposes, by rod and reel only. Season dates and harvest limits shall be the same as for taking fish under State of Alaska sport fishing regulations.***

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

\*\*\*

*(B) In the remainder of the Kodiak Area not described in paragraphs (e)(9)(iii)(A) and (e)(9)(v)(B) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.*

\*\*\*

## **Existing State Subsistence Regulation**

### **5 AAC 01.525**

*The following waters are closed to the subsistence taking of salmon;*

*(1) all waters of Near Island Channel that are bounded by a line from a point on Kodiak Island near Delarov Street at 57\_ 47.62' N. lat., 152\_ 22.78' W. long., to the northernmost point of Holiday Island at 57\_ 47.27' N. lat., 152\_ 22.60' W. long., to a point at the northernmost tip of Near Island at 57\_ 47.30' N. lat., 152\_ 23.16' W. long., to a point at the northernmost end of Uski Island south of the Dog Bay small boat harbor entrance at 57\_ 46.92' N. lat., 152\_ 24.56' W. long., and north to a point at the tip of the breakwater on Kodiak Island at 57\_ 47.08' N. lat., 152\_ 24.60' W. long; in addition, from August 7 through September 30, all waters of Mill Bay and those waters bounded by a line from a point at Spruce Cape at 57\_ 49.33' N. lat., 152\_ 19.48' W. long., to the northernmost point of Woody Island at 57\_ 47.91' N. lat., 152\_ 19.85' W. long., to a point at the northernmost point of Holiday Island at 57\_ 47.27' N. lat., 152\_ 22.60' W. long., and to a point on Kodiak Island near Delarov Street at 57\_ 47.62' N. lat., 152\_ 22.78' W. long.;*

## Existing State Sport Fish Regulation

### 5 AAC 64.022

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual, and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

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

*(A) in fresh waters:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five king salmon; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; king salmon less than 20 inches in length caught in fresh water do not count toward the annual limit;*

*(B) in salt waters: bag and possession limit of two fish; no size limit; no annual limit; a harvest record is not required;*

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

*(A) 20 inches or greater in length; bag and possession limit of five fish, of which only two may be coho salmon and only two may be sockeye salmon;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish*

\*\*\*

*(8) in the Kodiak Road Zone, from September 16 - December 31, the bag and possession limit for coho salmon, 20 inches or greater in length, is one fish, except that in the following stocked waters the bag and possession limit for coho salmon, 20 inches or greater in length, is two fish:*

## Extent of Federal Public Lands/Waters

For the purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. All waters inside of a line running from a marker on a bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker

located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude (**Figure 1**).

### Federal Closure Area Marine Waters - Buskin River



**Figure 1.** Marine Federal public waters closed to subsistence near the mouth of the Buskin River.

## Customary and Traditional Use Determinations

Rural residents of Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base have a customary and traditional use determination for salmon for the Kodiak Area except the Mainland District.

## Regulatory History

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations which previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner, and has not been subsequently modified.

Fisheries emergency special actions were implemented for Womens Bay and Buskin River in recent history due to poor returns of salmon to the Buskin River drainage. This includes Emergency Special Action 9-SS-01-22 in 2022 that closed the take of Sockeye Salmon (*Oncorhynchus nerka*) by all users in the open marine water area, which was later rescinded under Emergency Special Action 9-RS-02-22. Emergency Special Action 9-RS-01-21 in 2021, which closed the take of Sockeye Salmon to all users in the Federal public waters of Womens Bay, and 9-SS-02-19 in 2019, which closed all Federal public waters at the mouth of the Buskin River in the Kodiak District to the take of Coho Salmon (*Oncorhynchus kisutch*).

## Current Events Involving the Species

Fisheries closure review FCR21-16, for the same Buskin River mouth closure area under consideration in this proposal, is also under review during this regulatory cycle.

## Biological Background

Annual Sockeye Salmon escapement returning to the Buskin River is estimated through a weir from May through July. The majority of fish returning to the system pass through a weir located at the outlet of Buskin Lake and the Catherine-Louise Lake weir is no longer in operation. Buskin Lake has a Sockeye Salmon escapement goal of 5,000 to 8,000 fish (Anderson et al. 2019). The Buskin River has seen both very strong and relatively weak Sockeye and Coho salmon runs over the past 10 years (**Table 1**). The 2021 escapement of 2,330 Sockeye Salmon was the lowest return of Sockeye Salmon in the past 10-year period (2012 – 2021). During 2013, one of the highest passages was recorded (16,178 fish) for that same 10-year period. In the most recent 5-year period, two years did not meet escapement for Sockeye Salmon (2018 and 2021).

The Buskin River supports one of the historically most productive Coho Salmon stocks in the Kodiak Management Area (Polum et al. 2019). Coho Salmon typically start returning in early to mid-August and continue into the fall. The escapement is monitored by a weir about a mile above the river mouth. The Buskin River has a Coho Salmon escapement goal of 4,700-9,600 fish. From 2012 to 2021, weir



counts of Coho Salmon ranged from a high of 8,413 fish in 2014 to a low of 630 fish in 2020 (**Table 1**). During the 2020 season, the low count of 630 fish was considered a partial count due to weir being inoperable during mid-season. Other years such as 2015 were considered only partial weir counts due to a similar situation. These weir counts are not the total escapements and some years do not include the harvest data. The average annual weir count was 4,776 fish during this 10-year period.

**Table 1.** Annual weir counts of Sockeye and Coho salmon in the Buskin River from 2012 to 2021 with 10-year averages.

| <b>Year</b>    | <b>Sockeye</b> | <b>Coho</b>  |
|----------------|----------------|--------------|
| 2012           | 8,565          | 4,295        |
| 2013           | 16,178         | 5,765        |
| 2014           | 13,976         | 8,413        |
| 2015           | 8,719          | 4,271        |
| 2016           | 11,584         | 2,488        |
| 2017           | 7,222          | 5,559        |
| 2018           | 4,284          | 2,883        |
| 2019           | 12,297         | 5,537        |
| 2020           | 7,741          | 630          |
| 2021           | 2,330          | 7,914        |
| <b>Average</b> | <b>9,290</b>   | <b>4,776</b> |

### **Cultural Knowledge and Traditional Practices**

The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq; the Koniag/Qikertarmiut; and Eastern European, Asian, and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence resources have been marine animals, shellfish, near-shore fisheries, sea or littoral birds and their eggs, and salmon harvested primarily from spawning areas (Clark 1998: 176). Salmon remain one of the primary components of subsistence diets for rural residents in this region (Wolf and Walker 1987, Fall and Walker 1993, Marchioni et al. 2016). Historically, some of the most-utilized harvest areas for subsistence salmon in the Kodiak archipelago have been the Buskin and Pasagshak Rivers located on the northern end of Kodiak Island and the southeast side of Afognak Island at Litnik (Anderson et al. 2016; Brown et al. 2021).

Today, the Kodiak Island Borough has a population of 13,383 residents (US Census Bureau 2020). 1,789 of these residents live at Kodiak Station, along the Buskin River (US Census 2020). Residents throughout the Kodiak Islands currently harvest salmon using subsistence gillnets and seines, rod and reel, and removal of salmon from commercial catch for home use (Marchioni et al. 2016). Access for salmon harvesting is often obtained through social networks, and salmon harvests are regularly shared between community members (Marchioni et al. 2016). Harvested salmon are typically dried, smoked, or canned to preserve the resource for use out of season (Marchioni et al. 2016). These subsistence practices form a key basis of cultural identity, family life, and community well-being in the area (Fall 1999). When salmon are scarce, area residents must rely upon secondary subsistence resources and/or



turn to expensive store-bought foods (Marchioni et al. 2016). According to the most recent Alaska subsistence and personal use fisheries report (Brown et al. 2021: 168):

The total reported subsistence salmon harvest for the Kodiak Area in 2018 was 17,459 fish, less than the reported 2017 harvest and well below the recent 5-year (2013–2017) and 10-year (2008–2017) averages of 26,390 salmon and 28,364 salmon, respectively. The lower reported harvest numbers correspond with the abnormally low return of sockeye salmon to the Buskin River system in 2018 (Polum et al. 2019: 37).

The significant reductions in salmon stock available for subsistence harvest in recent years have caused increasing concerns about food security and the maintenance of subsistence lifestyles in the region (KARAC 2021).

### **Harvest History**

Both Federal and State subsistence users harvest primarily Sockeye and Coho salmon in marine waters near the mouth of the Buskin River. However, the marine waters adjacent to the mouth of the Buskin River are closed under both Federal and State subsistence regulation to protect salmon as they migrate through the estuary. The Buskin River supports the primary runs of Sockeye and Coho salmon to Women’s Bay. Large subsistence and sport fish harvests occur on these returning stocks of the Buskin River. Historically, the marine waters beyond the closure are the single largest source of subsistence salmon harvested in Federal waters within the Kodiak-Aleutians Region (Witteveen et al. 2020). The Buskin River is also one of the most popular sport fishing locations because of road access and proximity to the City of Kodiak. Both Sockeye and Coho salmon are targeted in the sport fishery. In addition, commercial fisheries in the marine waters surrounding Kodiak Island also harvest a small number of Buskin River salmon (Anderson et al. 2019). Fish harvests from the Buskin River generally fluctuate with the escapement, but due to its proximity to the City of Kodiak, the Buskin River continues to support both subsistence and sport fishing even in years with small returns. The Sockeye Salmon fisheries occurs primarily in June due to the early run timing.

#### *Subsistence Harvest of Coho and Sockeye Salmon*

Between 2016 and 2020, the annual subsistence harvests for Sockeye Salmon have ranged from a low of 473 in 2018 to a high of 4,916 in 2017, with an annual average harvest of 3,891. Coho Salmon harvest varies drastically from year to year with a low harvest of 300 fish (6% of total harvest) and a high of 1,107 fish (69% of total harvest) (**Table 2**). Total number of permits issued for subsistence harvest has declined from 2016 to 2020.

**Table 2.** Buskin River drainage reported subsistence harvest by species 2016-2020 (Witteveen et al. 2020). Additional harvests of Chinook, Pink and Chum salmon occur and are not show in this table. Sockeye and Coho salmon makeup 95% of the total harvest.

| Year           | # of Permits | Sockeye # Fish | Sockeye % Total | Coho # Fish | Coho % Total |
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| <b>Average</b> | <b>281</b>   | <b>3,891</b>   | <b>67%</b>      | <b>865</b>  | <b>28%</b>   |

### *Sport Fish Harvest of Coho Salmon*

Between 2010 and 2018, the annual sport harvest of Coho Salmon in the Buskin River has ranged from 1,793 to 5,388 with an average annual harvest of 3,293 fish (**Table 3**).

**Table 3.** Buskin River Coho Salmon sport fishery harvest 2010-2018 (Polum et al. 2019).

| Year           | Sport Harvest |
|----------------|---------------|
| 2010           | 2,847         |
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| 2012           | 1,926         |
| 2013           | 4,926         |
| 2014           | 5,388         |
| 2015           | 4,889         |
| 2016           | 1,895         |
| 2017           | 2,337         |
| 2018           | 1,793         |
| <b>Average</b> | <b>3,293</b>  |

### **Effects of the Proposal**

If fisheries proposal FP23-06b is adopted, Federally qualified subsistence users would have additional opportunity to harvest fish closer to town in the nearshore marine waters. It is unlikely that harvest rates would increase if this closure were rescinded. Rural residents of Kodiak are already harvesting salmon under State sport fish regulations and this change would allow Kodiak residents to choose which fishery they would like to participate in. Additionally, the boundaries of this closed area is confusing and hard to distinguish while fishing in the marine environment; by adopting this proposal, the area boundary wouldn't exist any longer.

If FP23-06b is not adopted, there would be continued inconsistency between State sport, State subsistence and Federal subsistence regulations. Federally qualified subsistence users would not be eligible for priority consumptive use in times of resource restrictions.

## OSM PRELIMINARY CONCLUSION

### Support Proposal FP23-06b

#### Justification

Section 802(2) of ANILCA requires that subsistence uses by rural residents of Alaska shall by “the priority consumption uses of all such resources on the public lands of Alaska”. Currently, Federally qualified subsistence users are not allowed to harvest salmon under Federal subsistence regulations in the same Federal public waters where the State sport fish harvest is allowed. Aligning State and Federal regulations would prevent Federal subsistence regulations from being more restrictive than State sport fishing regulations, and overall harvests levels would likely remain unaffected as Federally qualified users are already harvesting in the State sport fishery.

#### LITERATURE CITED

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Wolfe, R.J., and R.J. Walker. 1987. Subsistence economies in Alaska: Productivity, geography, and development impacts. *Arctic Anthropology* 24(2): 56-81.

| <b>FCR21–16 Executive Summary</b>  |   |
|--|---|
| <b>General Description</b>   | FCR21-16 is a routine review of the closure to harvest of salmon by Federally qualified subsistence users in the closed marine waters of the Buskin River.  |
| <b>Current Regulation</b>  | <p><b>Kodiak Area – Salmon</b></p> <p>§ __.27(e)(9)<br/>***<br/>(iii) You may not subsistence fish for salmon in the following locations:<br/>***</p> <p><i>(B) Buskin River closed waters—All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>  |
| <b>Southeast Alaska Subsistence Regional Advisory Council Recommendation</b> |   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |   |
| <b>Interagency Staff Committee Comments</b>                                  |   |
| <b>ADF&amp;G Comments</b>  |   |
| <b>Written Public Comments</b>   | <b>None</b>   |

**FEDERAL FISHERIES CLOSURE REVIEW  
FCR21-16**

**Issue**

FCR21-16 is a standard review of a Federal fishery closure to salmon fishing in the marine waters near Buskin 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. A parallel proposal FP23-06b was submitted by Kodiak resident, Rebecca Skinner to rescind this closure and implement a new rod and reel fishery that would match the State sport fish regulations.

**Closure Location:** Kodiak Area, Buskin River—Salmon

**Current Federal Regulation**

**Kodiak Area – Salmon**

§ \_\_.27(e)(9)

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*(iii) You may not subsistence fish for salmon in the following locations:*

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*(B) Buskin River closed waters—All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude.*

**Current State Subsistence Regulation**

**Kodiak Area – Salmon**

**5 AAC 01.525**

*The following waters are closed to the subsistence taking of salmon;*

*(1) all waters of Near Island Channel that are bounded by a line from a point on Kodiak Island near Delarov Street at 57\_ 47.62' N. lat., 152\_ 22.78' W. long., to the northernmost point of Holiday Island at 57\_ 47.27' N. lat., 152\_ 22.60' W. long., to a point at the northernmost tip of*

*Near Island at 57\_ 47.30' N. lat., 152\_ 23.16' W. long., to a point at the northernmost end of Uski Island south of the Dog Bay small boat harbor entrance at 57\_ 46.92' N. lat., 152\_ 24.56' W. long., and north to a point at the tip of the breakwater on Kodiak Island at 57\_ 47.08' N. lat., 152\_ 24.60' W. long.; in addition, from August 7 through September 30, all waters of Mill Bay and those waters bounded by a line from a point at Spruce Cape at 57\_ 49.33' N. lat., 152\_ 19.48' W. long., to the northernmost point of Woody Island at 57\_ 47.91' N. lat., 152\_ 19.85' W. long., to a point at the northernmost point of Holiday Island at 57\_ 47.27' N. lat., 152\_ 22.60' W. long., and to a point on Kodiak Island near Delarov Street at 57\_ 47.62' N. lat., 152\_ 22.78' W. long.;*

## **Current State Sport Fish Regulations**

### **Kodiak Area – Salmon**

#### **5 AAC 64.022**

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual, and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

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

*(A) in fresh waters:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five king salmon; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; king salmon less than 20 inches in length caught in fresh water do not count toward the annual limit;*

*(B) in salt waters: bag and possession limit of two fish; no size limit; no annual limit; a harvest record is not required;*

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

*(A) 20 inches or greater in length; bag and possession limit of five fish, of which only two may be coho salmon and only two may be sockeye salmon;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish*

\*\*\*

(8) in the Kodiak Road Zone, from September 16 - December 31, the bag and possession limit for coho salmon, 20 inches or greater in length, is one fish, except that in the following stocked waters the bag and possession limit for coho salmon, 20 inches or greater in length, is two fish:

**Regulatory Year Initiated:** 1992

**Extent of Federal Public Lands/Waters**

Buskin River closed waters - All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude. (**Figure 1**).



**Figure 1.** Federal closed marine waters adjacent to the Buskin River mouth.



### **Customary and Traditional Use Determination**

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

### **Regulatory History**

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations which previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner, and has not been subsequently modified.

Fisheries emergency special actions were implemented for Women's Bay and Buskin River in recent history due to poor returns of salmon to the Buskin River drainage. This includes Emergency Special Action 9-SS-01-22 in 2022 and was rescinded under Emergency Special Action 9-RS-02-22 to allow the harvest of Sockeye Salmon in the marine waters. Emergency Special Action 9-RS-01-21 in 2021, which closed the take of Sockeye Salmon (*Oncorhynchus nerka*) to all users in the Federal public waters of Women's Bay, and 9-SS-02-19 in 2019, which closed all Federal public waters at the mouth of the Buskin River in the Kodiak District to the take of Coho Salmon (*Oncorhynchus kisutch*).

### **Current Events Involving the Species**

A parallel fisheries proposal FP23-06b was submitted by Kodiak resident Rebecca Skinner that would rescind the Buskin River closure and modify the regulations to allow the use of rod and reel to harvest salmon. Harvest limits would remain the same as State sport fish regulations.

### **Closure last reviewed**

A review was initiated during the 2021 fish proposal cycle and was recommended to be deferred by the Kodiak Aleutian Subsistence Regional Advisory Council to allow for additional feedback from the rural public in affected communities. The Board subsequently deferred the review until the 2023 fisheries regulatory cycle.

### **Justification for Original Closure**

There is no Federal Subsistence Board justification for the original closure as it was incorporated from the State subsistence fishing regulations.

### **Council Recommendation for Original Closure:**

N/A

**State Recommendation for Original Closure:**

N/A

**Biological Background**

Annual Sockeye Salmon escapement returning to the Buskin River is estimated through a weir from May through July. The majority of fish returning to the system pass through a weir located at the outlet of Buskin Lake and the Catherine-Louise Lake weir is no longer in operation. Buskin Lake has a Sockeye Salmon escapement goal of 5,000 to 8,000 fish (Anderson et al. 2019). The Buskin River has seen both very strong and relatively weak Sockeye and Coho salmon runs over the past 10 years (**Table 1**). The 2021 escapement of 2,330 Sockeye Salmon was the lowest return of Sockeye Salmon in the past 10-year period (2012 – 2021). During 2013, one of the highest passages was recorded (16,178 fish) for that same 10-year period. In the most recent 5-year period, two years did not meet escapement for Sockeye Salmon (2018 and 2021).

The Buskin River supports one of the historically most productive Coho Salmon stocks in the Kodiak Management Area (Polum et al. 2019). Coho Salmon typically start returning in early to mid-August and continue into the fall. The escapement is monitored by a weir about a mile above the river mouth. The Buskin River has a Coho Salmon escapement goal of 4,700-9,600 fish. From 2012 to 2021, weir counts of Coho Salmon ranged from a high of 8,413 fish in 2014 to a low of 630 fish in 2020 (**Table 1**). During the 2020 season, the low count of 630 fish was considered a partial count due to weir being inoperable during mid-season. Other years such as 2015 were considered only partial weir counts due to a similar situation. These weir counts are not the total escapements and some years do not include the harvest data. The average annual weir count was 4,776 fish during this 10-year period.

**Table 1.** Annual weir counts of Sockeye and Coho salmon in the Buskin River from 2012 to 2021 with 10-year averages.

| <b>Year</b>    | <b>Sockeye</b> | <b>Coho</b>  |
|----------------|----------------|--------------|
| 2012           | 8,565          | 4,295        |
| 2013           | 16,178         | 5,765        |
| 2014           | 13,976         | 8,413        |
| 2015           | 8,719          | 4,271        |
| 2016           | 11,584         | 2,488        |
| 2017           | 7,222          | 5,559        |
| 2018           | 4,284          | 2,883        |
| 2019           | 12,297         | 5,537        |
| 2020           | 7,741          | 630          |
| 2021           | 2,330          | 7,914        |
| <b>Average</b> | <b>9,290</b>   | <b>4,776</b> |

## **Cultural Knowledge and Traditional Practices**

The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq, the Koniag/Qikertarmiut, and Eastern European and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence resources have been marine animals, shellfish, near-shore fisheries, sea or littoral birds and their eggs, and salmon harvested primarily from spawning streams (Clark 1998: 176). Salmon remain one of the primary components of subsistence diets for rural residents in this region (Fall and Walker 1993; Marchioni et al. 2016; Wolfe and Walker 1987). Historically, some of the most-utilized harvest areas for subsistence salmon in the Kodiak archipelago have been the Buskin and Pasagshak Rivers located on the northern end of Kodiak Island and the southeast side of Afognak Island at Litnik (Anderson et al. 2016; Brown et al. 2021).

Today, the Kodiak Island Borough has a population of 13,383 residents (US Census Bureau 2020). 1,789 of these residents live at Kodiak Station, along the Buskin River (US Census 2020). Residents throughout the Kodiak Area currently harvest salmon using subsistence gillnets and seines, rod and reel, and removal of salmon from commercial catch for home use (Marchioni et al. 2016). Access for salmon harvesting is often obtained through social networks, and salmon harvests are regularly shared between community members (Marchioni et al. 2016). Harvested salmon are typically dried, smoked, or canned to preserve the resource for use out of season (Marchioni et al. 2016). These subsistence practices form a key basis of cultural identity, family life, and community well-being in the area (Fall 1999). When salmon are scarce, area residents must rely upon secondary subsistence resources and/or turn to expensive store-bought foods (Marchioni et al. 2016). The significant reductions in salmon stock available for subsistence harvest in recent years have caused increasing concerns about food security in the region (KARAC 2021). According to the most recent Alaska subsistence and personal use fisheries report (Brown et al. 2021: 168):

The total reported subsistence salmon harvest for the Kodiak Area in 2018 was 17,459 fish, less than the reported 2017 harvest and well below the recent 5-year (2013–2017) and 10-year (2008–2017) averages of 26,390 salmon and 28,364 salmon, respectively. The lower reported harvest numbers correspond with the abnormally low return of sockeye salmon to the Buskin River system in 2018 (Polum et al. 2019: 37).

## **Harvest History**

Both Federal and State subsistence users harvest primarily Sockeye and Coho salmon in marine waters near the mouth of the Buskin River. However, the marine waters adjacent to the mouth of the Buskin River are closed under both Federal and State subsistence regulation to protect salmon as they migrate through the estuary. The Buskin River supports the primary runs of Sockeye and Coho salmon to Women's Bay. Large subsistence and sport fish harvests occur on these returning stocks of the Buskin River. Historically, the marine waters beyond the closure are the single largest source of subsistence salmon harvested in Federal waters within the Kodiak-Aleutians Region (Witteveen et al. 2020). The Buskin River is also one of the most popular sport fishing locations because of road access and proximity

to the City of Kodiak. Both Sockeye and Coho salmon are targeted in the sport fishery. In addition, commercial fisheries in the marine waters surrounding Kodiak Island also harvest a small number of Buskin River salmon (Anderson et al. 2019). Fish harvests from the Buskin River generally fluctuate with the escapement, but due to its proximity to the City of Kodiak, the Buskin River continues to support both subsistence and sport fishing even in years with small returns. The Sockeye Salmon fisheries occurs primarily in June due to the early run timing.

#### *Subsistence Harvest of Coho and Sockeye Salmon*

Between 2016 and 2020, the annual subsistence harvests for Sockeye Salmon have ranged from the low in 2018 with 473 to the high in 2017 with 4,916, with an annual average of 3,891. Coho Salmon harvest varies drastically from year to year with a low harvest of 300 fish (6% of total harvest) and a high of 1,107 fish (69% of total harvest) (**Table 2**). Total number of permits issued for subsistence harvest has declined from 2016 to 2020.

**Table 2.** Buskin River drainage reported subsistence harvest by species 2016-2020 (Witteveen et al. 2020). Additional harvests of Chinook, Pink and Chum salmon occur and are not show in this table. Sockeye and Coho salmon makeup 95% of the total harvest.

| <b>Year</b>    | <b># of</b>    | <b>Sockeye</b> | <b>Sockeye</b> | <b>Coho</b>   | <b>Coho</b>    |
|----------------|----------------|----------------|----------------|---------------|----------------|
| <b>Year</b>    | <b>Permits</b> | <b># Fish</b>  | <b>% Total</b> | <b># Fish</b> | <b>% Total</b> |
| 2016           | 255            | 4,743          | 89%            | 496           | 9%             |
| 2017           | 242            | 4,916          | 93%            | 300           | 6%             |
| 2018           | 108            | 473            | 29%            | 1,107         | 69%            |
| 2019           | 111            | 836            | 62%            | 340           | 25%            |
| 2020           | 163            | 1,620          | 64%            | 760           | 30%            |
| <b>Average</b> | <b>281</b>     | <b>3,891</b>   | <b>67%</b>     | <b>865</b>    | <b>28%</b>     |

#### *Sport Fish Harvest of Coho Salmon*

Between 2010 and 2018, the annual sport harvest of Coho Salmon in the Buskin River has ranged from 1,793 to 5,388 with an average annual harvest of 3,293 fish (**Table 3**).

**Table 3.** Buskin River Coho Salmon sport fishery harvest 2010-2018 (Polum et al. 2019).

| <b>Year</b>    | <b>Sport</b>   |
|----------------|----------------|
|                | <b>Harvest</b> |
| 2010           | 2,847          |
| 2011           | 3,640          |
| 2012           | 1,926          |
| 2013           | 4,926          |
| 2014           | 5,388          |
| 2015           | 4,889          |
| 2016           | 1,895          |
| 2017           | 2,337          |
| 2018           | 1,793          |
| <b>Average</b> | <b>3,293</b>   |

## Effects

Currently, harvest of Sockeye and Coho salmon is allowed under State sport fish regulation in this area while harvest is prohibited by Federally qualified subsistence users. If the closure were rescinded, Federally qualified subsistence users would be allowed to use all of the gear types currently listed on the permit stipulations which would include the use of nets. Because salmon congregate at the mouth of the river and have in recent history shown years of periodic low abundance, this could cause a conservation concern considering the harvest would take place in the marine waters, below the weir. To conserve fish populations, the Federal in-season manager could issue a special action to set provisions for the fishery, such as stipulating gear types like rod and reel only and setting conservative harvest limits.

If the closure were retained, sport harvest of salmon would continue while Federally qualified subsistence users would be prohibited from harvesting salmon under Federal subsistence regulations in this location. There is opportunity for harvest outside of these closed waters.

If the closure were rescinded and the regulation modified to mirror State sport fish methods and harvest limits as suggested by FP23-06a, this would provide a new opportunity for subsistence harvest in an area that already allows sport harvest. Harvest would likely remain near the same level because rural residents are already harvesting fish under State sport fishing regulations. This would cause regulatory complexity, while providing a rural priority for subsistence use and during times of low abundance by limiting the fishery to Federally qualified subsistence users only.

## OSM PRELIMINARY CONCLUSION:

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

The modified regulation should read:

### Kodiak Area – Salmon

#### § \_\_.27(e)(9)

(iii) *You may not subsistence fish for salmon in the following locations:*

*(B) ~~Buskin River closed waters—All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude.~~*

## Justification

This relatively small area of marine water at the mouth of the Buskin River under Federal jurisdiction is currently closed to the harvest of salmon by Federally qualified subsistence users but remains open to other uses. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries. The in-season manager can use this authority to manage the fishery in the short term. It is unlikely the harvest level would rise considering a majority of the Federally qualified subsistence users are already harvesting fish under the State sport fish regulations in these waters. By rescinding the closure, the Council could take action on the modification that was submitted for FP23-06b. Recent years have had periodically poor runs of Sockeye Salmon, however the weir data provides in-season information regarding the run strength to provide timely management actions to protect the fishery if needed, or limit the fishery to Federally qualified subsistence users only.

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| <b>FCR21–18 Executive Summary</b>  |  |
|--|--|
| <b>General Description</b>   | FCR21-18 is a routine review of the closure to harvest of salmon by Federally qualified subsistence users in the closed marine waters of Afognak Bay.  |
| <b>Current Regulation</b>  | <p><b>Kodiak Area–Salmon</b></p> <p><b>§__.27(e)(9) Kodiak Area</b></p> <p>***</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p style="text-align: center;"><i>(D) In Afognak Bay north and west of a line from the tip of Last Point to the tip of River Mouth Point.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |



**FEDERAL FISHERIES CLOSURE REVIEW  
FCR21-18**

**Issue**

FCR21-18 is a standard review of a Federal fishery closure to salmon fishing in the marine waters adjacent to the mouth of the Afognak River in Afognak Bay. It is the Federal Subsistence Board's (Board) 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:** Afognak Bay—Salmon

**Current Federal Regulation**

**Kodiak Area—Salmon**

§\_\_.27(e)(9)

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

\*\*\*

*(D) In Afognak Bay north and west of a line from the tip of Last Point to the tip of River Mouth Point.*

**Closure Dates:** Year-round

**Current State Regulation**

**Kodiak Area – Salmon**

**5 AAC 01.525**

*The following waters are closed to the subsistence taking of salmon:*

\*\*\*\*\*

*(4) all waters closed to commercial salmon fishing in the Barabara Cove, Chiniak Bay, Saltery Cove, Pasagshak Bay, Monashka Bay and Anton Larsen Bay as described in 5 AAC 18.350, and all waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay*

*Creek and north and west of a line from the tip of Last Point to the tip of River Mouth Point in Afognak Bay;*

## **Current State Sport Fish Regulation**

### **Kodiak Area–Salmon**

#### **5 AAC 64.022**

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual, and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

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

*(A) in fresh waters:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five king salmon; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; king salmon less than 20 inches in length caught in fresh water do not count toward the annual limit;*

*(B) in salt waters: bag and possession limit of two fish; no size limit; no annual limit; a harvest record is not required;*

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

*(A) 20 inches or greater in length; bag and possession limit of five fish, of which only two may be coho salmon and only two may be sockeye salmon;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish*

\*\*\*\*\*

*(c) In the Kodiak Remote Zone, the following bag and possession limits apply to salmon, other than king salmon:*

*(1) for salmon, other than king salmon, 20 inches or greater in length, the bag limit is five fish and 10 fish in possession;*

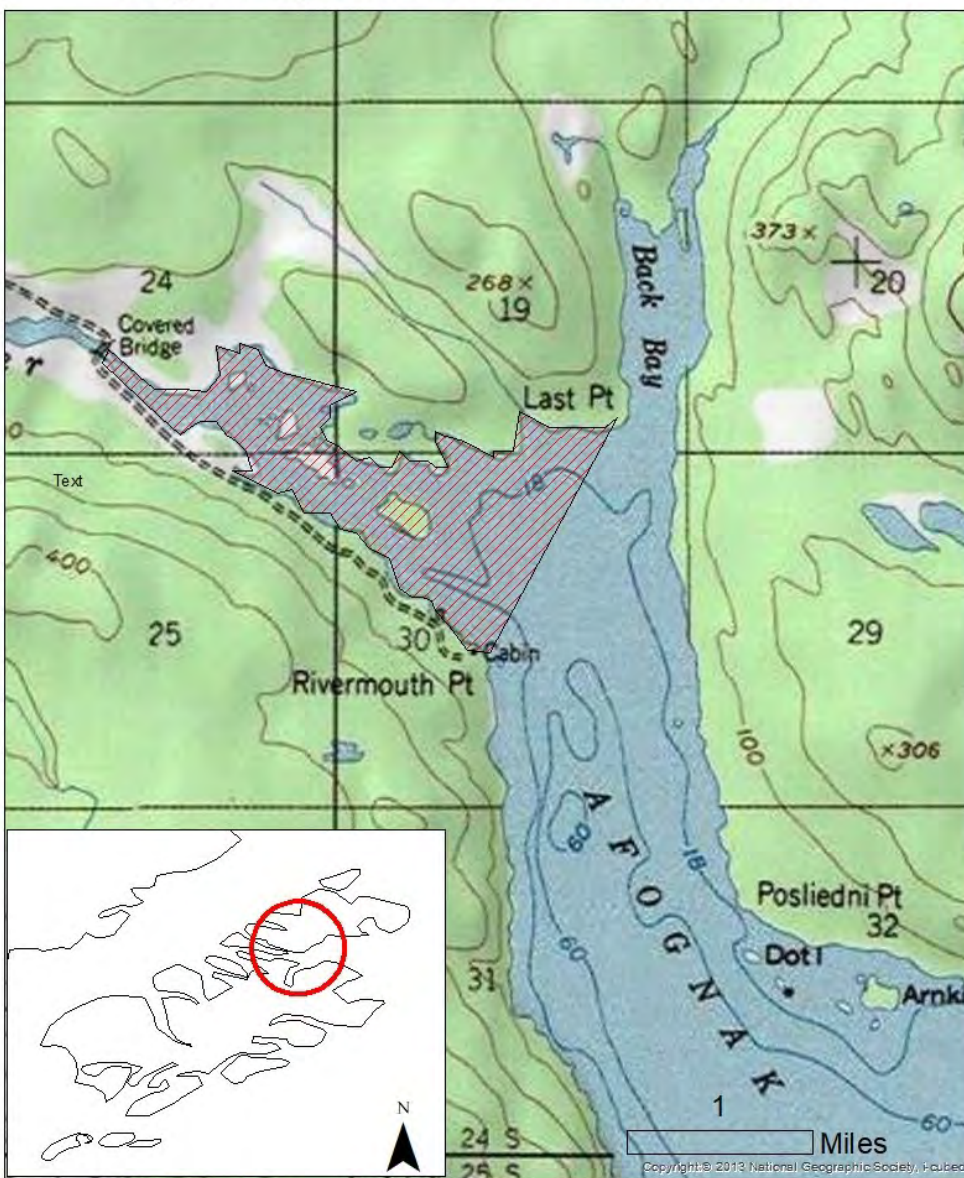
*(2) for salmon, other than king salmon, less than 20 inches in length, the bag and possession limit is 10 fish.*

**Regulatory Year Initiated:** 1992

**Extent of Federal Public Lands/Waters**

For the purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3 This proposal will pertain to Federal marine waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, an area defined on either side of the mouth of the Karluk River extending seaward 3,000 feet from shoreline, and all waters within three nautical miles of Afognak Island (**Figure 1**).

Federal Closure Area  
Afognak Bay - Last Point to Rivermouth Point



**Figure 1.** Federal closure area in Afognak Bay, Afognak Island.

### **Customary and Traditional Use Determination**

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

### **Regulatory History**

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations, which previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner and has not been subsequently modified.

### **Closure Last Reviewed**

A review was initiated during the 2021 fish proposal cycle and was recommended to be deferred by the Kodiak Aleutian Subsistence Regional Advisory Council to allow for additional feedback from the rural public in affected communities. The Board subsequently deferred the review until the 2023 fisheries regulatory cycle.

### **Justification for Original Closure**

There is no Federal Subsistence Board justification for the original closure as it was incorporated from the State subsistence fishing regulations.

### **Council Recommendation for Original Closure**

N/A

### **State Recommendation for Original Closure**

N/A

### **Biological Background**

The Afognak (known locally as Litnik) Lake watershed is located on the southeast side of Afognak Island and supports Sockeye Salmon (*Oncorhynchus nerka*), Coho Salmon (*O. kisutch*) and Pink Salmon (*O. gorbuscha*) runs. Afognak Lake drains through Afognak River which flows into Afognak Bay (**Figure 1**). Afognak Bay is part of the Alaska Maritime National Wildlife Refuge and is where most localized subsistence Sockeye Salmon fishing occurs (Ruhl 2017). The marine waters adjacent to the mouth of the Afognak River are closed under both Federal and State subsistence regulation to protect salmon as they migrate through the estuary.

The Afognak River weir is located approximately 0.8 km above the outlet of the Afognak River and operates from mid-May to mid-August. Currently, the Afognak River has an escapement goal of 20,000-

50,000 Sockeye Salmon. The Afognak River has seen relatively weak Sockeye Salmon returns in recent years (**Table 1**). Between 2010 and 2021, the annual Sockeye Salmon escapement ranged from 17,601 to 51,821 fish, with a 12-year average escapement of 34,124 fish. Sockeye Salmon returns have been below average since 2016, with the lowest return of 17,601 fish occurring in 2018. Monitoring of adult Coho Salmon through the weir into Afognak Lake has been secondary to monitoring Sockeye Salmon escapement (Ruhl 2017). Because of budgetary constraints, the weir is often removed before the Coho run is complete. Coho Salmon escapement estimates are often incomplete and dependent on run timing. There is no escapement goal for Coho or Pink Salmon returning to Afognak Lake.

**Table 1.** Afognak (Litnik) River Escapement Count for Sockeye, Coho and Pink salmon 2010-2021. (ADF&G 2021 Fish Counts). No average is provided for Coho or Pink salmon because they are partial counts.

| Year | Sockeye Salmon | Coho Salmon*<br>Pink Salmon* | Pink Salmon* |
|------|----------------|------------------------------|--------------|
| 2010 | 51821          | 10288                        | 62237        |
| 2011 | 48588          | 2700                         | 4241         |
| 2012 | 41146          | 5701                         | 111928       |
| 2013 | 40888          | 13090                        | 17400        |
| 2014 | 35704          | 3224                         | 18408        |
| 2015 | 36780          | 181                          | 3203         |
| 2016 | 32459          | 4                            | null         |
| 2017 | 21411          | 107                          | 3074         |
| 2018 | 17601          | 2494                         | 11400        |
| 2019 | 26817          | 18                           | 460          |
| 2020 | 24284          | 388                          | 1569         |
| 2021 | 31997          | 35                           | 197          |

### Cultural Knowledge and Traditional Practices

The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq; the Koniag/Qikertarmiut; and Eastern European, Asian, and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence resources have been marine animals, shellfish, near-shore fisheries, sea or littoral birds and their eggs, and salmon harvested primarily in spawning areas (Clark 1998: 176). Salmon remain one of the primary components of subsistence diets for rural residents in this region (Fall and Walker 1993; Marchioni et al. 2016; Wolf and Walker 1987). Historically, some of the most-utilized harvest areas for subsistence salmon in the Kodiak archipelago have been the Buskin and Pasagshak Rivers located on the northern end of Kodiak Island and the southeast side of Afognak Island at Litnik (Anderson et al. 2016; Brown et al. 2021).

Today, the Kodiak Island Borough has a population of 13,383 residents (US Census Bureau 2020). Residents throughout the Kodiak Area currently harvest salmon using subsistence gillnets and seines, rod and reel, and removal of salmon from commercial catch for home use (Marchioni et al. 2016). Access for

salmon harvesting is often obtained through social networks, and salmon harvests are regularly shared between community members (Marchioni et al. 2016). Harvested salmon are typically dried, smoked, or canned to preserve the resource for use out of season (Marchioni et al. 2016). These subsistence practices form a key basis of cultural identity, family life, and community well-being in the area (Fall 1999). When salmon are scarce, area residents must rely upon secondary subsistence resources and/or turn to expensive store-bought foods (Marchioni et al. 2016). According to the most recent Alaska subsistence and personal use fisheries report (Brown et al. 2021: 168), “the total reported subsistence salmon harvest for the Kodiak Area in 2018 was 17,459 fish, less than the reported 2017 harvest and well below the recent 5-year (2013–2017) and 10-year (2008–2017) averages of 26,390 salmon and 28,364 salmon, respectively.” The significant reductions in salmon stock available for subsistence harvest in recent years have caused increasing concerns about food security and the ability to maintain subsistence lifestyles in the region (KARAC 2021).

### Harvest History

Subsistence harvest for salmon is open throughout the year in most Federal public waters of the Kodiak management area with a subsistence fishing permit. Historically, the most utilized subsistence fishery areas under Federal regulations are the marine waters in proximity to the Buskin River on the north end of Kodiak Island and the marine waters of Afognak Bay on the southeast side of Afognak Island. Both areas are part of the Alaska Maritime National Wildlife Refuge (Fall. 2020). Sockeye Salmon are the primary species harvested by Federally qualified subsistence users with a 3-year average harvest of 216 fish (Table 1) Coho Salmon are the second most frequently harvested fish with a 3-year average harvest of 48 fish. Fish harvested under State sport fish regulation in the Kodiak management area are estimated through the Alaska Sport Fishing Harvest Survey. Because of low response rates, there are no estimates of Sockeye or Coho Salmon harvests in the fresh water streams of Afognak Island (Dye, 2020).

**Table 1.** Federal Subsistence Salmon harvest in the Kodiak Area (Fall 2020).

| Year    | Permits Issued | Permits Returned | Chinook Salmon | Sockeye Salmon | Coho Salmon | Chum Salmon | Pink Salmon | Total |
|---------|----------------|------------------|----------------|----------------|-------------|-------------|-------------|-------|
| 2015    | 19             | 19               | 0              | 53             | 10          | 0           | 0           | 63    |
| 2016    | 51             | 42               | 13             | 168            | 65          | 0           | 0           | 246   |
| 2017    | 55             | 29               | 0              | 428            | 68          | 0           | 12          | 508   |
| Average | 42             | 30               | 4              | 216            | 48          | 0           | 4           | 272   |

### Effects

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), “...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over taking on such lands of fish and wildlife for other purposes.” There are currently nonsubsistence uses permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon in the Russell Creek drainage, thereby providing priority consumptive use to Federally qualified subsistence users.

If the closure is rescinded, Federally qualified subsistence users would be allowed to harvest salmon using the methods described on the Federal permit which allows the use of nets and a more liberal harvest than sport harvest. To conserve fish populations, the Federal in-season manager could issue a special action to set provisions for the fishery, such as stipulating gear types like rod and reel only and setting conservative harvest limits. If the inseason manager chose to mirror State sport fish regulations, harvest would likely remain near the same level because rural residents are already harvesting fish under State sport fishing regulations. This would cause regulatory complexity, while providing a rural priority for subsistence use and during times of low abundance by limiting the fishery to Federally qualified subsistence users only.

## OSM PRELIMINARY CONCLUSION

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

The modified regulation should read:

### **Kodiak Area–Salmon**

#### **§\_\_.27(e)(9) Kodiak Area**

*(iii) You may not subsistence fish for salmon in the following locations:*

~~(D) In Afognak Bay north and west of a line from the tip of Last Point to the tip of River Mouth Point.~~

### **Justification**

This portion of Afognak Bay is currently closed to the harvest of salmon by Federally qualified subsistence users but remains open to other uses. Section 802(2) of ANILCA requires that subsistence uses by rural residents of Alaska shall by “the priority consumption uses of all such resources on the public lands of Alaska”. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries. The in-season manager can use this authority to manage the fishery in the short term. Harvests levels would likely remain unaffected as Federally qualified users already participate in the State sport fishery. A proposal outlining specific parameters can be submitted during a future fisheries regulatory cycle if desired.

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| <b>FCR21–19 Executive Summary</b>  |  |
|--|--|
| <b>General Description</b>   | FCR21-19 is a routine review of the closure to harvest of salmon by Federally qualified subsistence users in the closed freshwater systems of Afognak Island.  |
| <b>Current Regulation</b>  | <p><b>Kodiak Area – Salmon</b></p> <p><b>50 CFR 100.27(e)(9) Kodiak Area.</b></p> <p>***</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p>***</p> <p><i>(F) All fresh water systems of Afognak Island.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |

**FEDERAL FISHERIES CLOSURE REVIEW  
FCR21-19**

**Issue**

FCR21-19 is a standard review of a Federal fishery closure to salmon fishing within the freshwater systems of Kodiak National Wildlife Refuge on Afognak Island. It is the Federal Subsistence Board's (Board) 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:** Afognak Island, freshwater systems—Salmon

**Current Federal Regulation**

**Kodiak Area – Salmon**

**50 CFR 100.27(e)(9) Kodiak Area.**

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

\*\*\*

*(F) All fresh water systems of Afognak Island.*

**Closure Dates:** Year-round

**Current State Regulation**

**Kodiak Area – Salmon**

**5 AAC 01.525**

*The following waters are closed to the subsistence taking of salmon:*

\*\*\*

*(8) all freshwater systems of Afognak Island;*

## Current State Sport Fish Regulation

### Kodiak Area—Salmon

#### 5 AAC 64.022

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual, and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

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

*(A) in fresh waters:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five king salmon; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; king salmon less than 20 inches in length caught in fresh water do not count toward the annual limit;*

*(B) in salt waters: bag and possession limit of two fish; no size limit; no annual limit; a harvest record is not required;*

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

*(A) 20 inches or greater in length; bag and possession limit of five fish, of which only two may be coho salmon and only two may be sockeye salmon;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish*

\*\*\*\*\*

*(c) In the Kodiak Remote Zone, the following bag and possession limits apply to salmon, other than king salmon:*

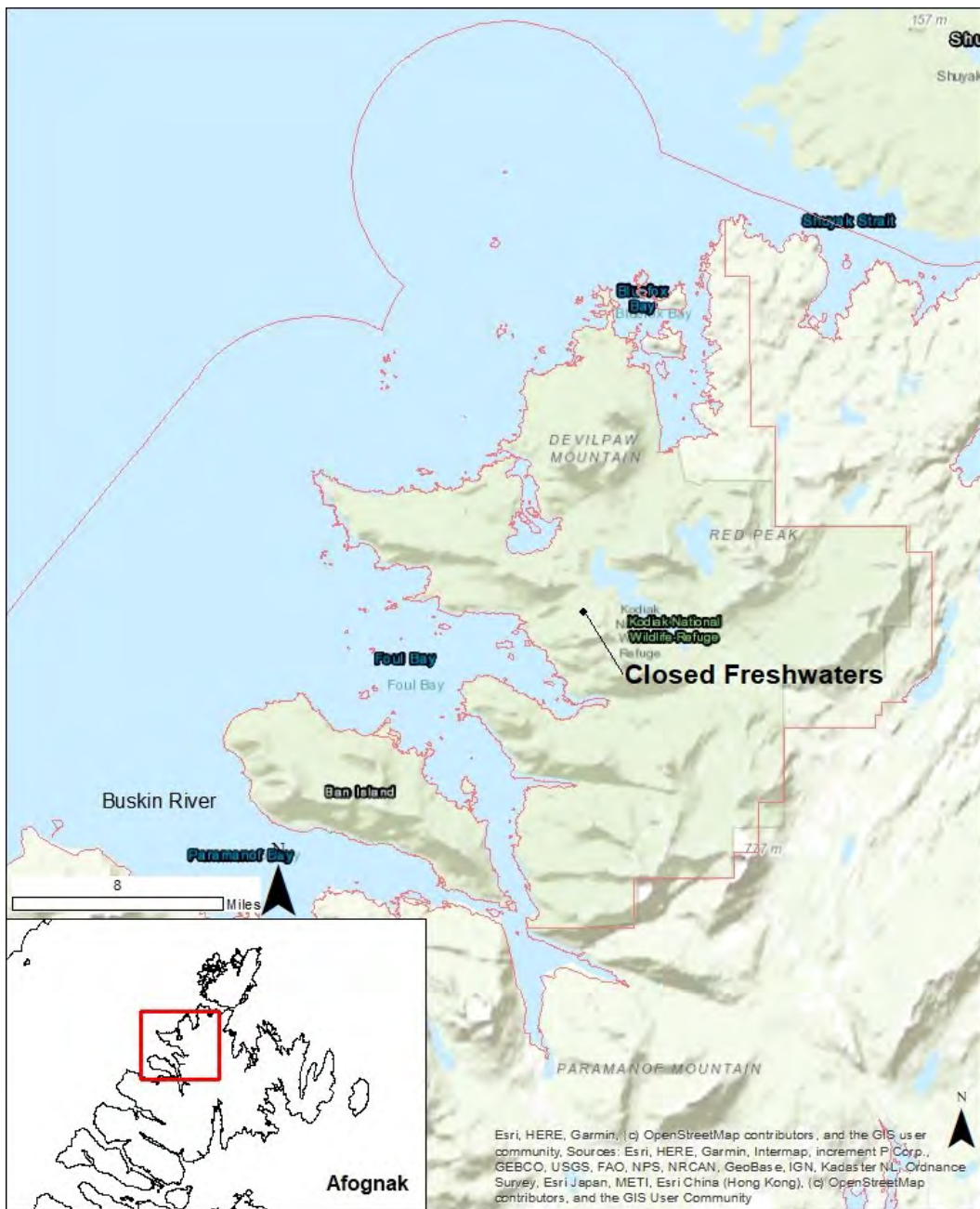
*(1) for salmon, other than king salmon, 20 inches or greater in length, the bag limit is five fish and 10 fish in possession;*

*(2) for salmon, other than king salmon, less than 20 inches in length, the bag and possession limit is 10 fish.*

**Regulatory Year Initiated: 1992**

**Extent of Federal Public Lands/Waters**

For the purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3 This proposal will pertain to Federal public freshwaters found on Afognak Island – Kodiak National Wildlife Refuge (**Figure 1**).



**Figure 1.** Afognak area map showing Federal closed freshwater systems.

### **Customary and Traditional Use Determination**

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

### **Regulatory History**

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations that previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner and has not been subsequently modified.

### **Closure Last Reviewed**

A review was initiated during the 2021 fish proposal cycle and was recommended to be deferred by the Kodiak Aleutian Subsistence Regional Advisory Council to allow for additional feedback from the rural public in affected communities. The Board subsequently deferred the review until the 2023 fisheries regulatory cycle.

### **Justification for Original Closure**

There is no Federal Subsistence Board justification for the original closure as it was incorporated from the State subsistence fishing regulations.

### **Council Recommendation for Original Closure**

N/A

### **State Recommendation for Original Closure**

N/A

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

Subsistence harvest for salmon is open throughout the year in most Federal public waters of the Kodiak management area with a subsistence fishing permit. However, the freshwater systems of Afognak Island within the Kodiak National Wildlife Refuge are closed under both Federal and State regulation to subsistence harvest because of their relatively small size and accessibility making the risk of over exploitation high (Anderson et. al. 2019). Historically, the most utilized subsistence fishery areas under Federal regulations are the marine waters in proximity to the Buskin River on the north end of Kodiak Island and the marine waters of Afognak Bay on the southeast side of Afognak Island. Both areas are part of the Alaska Maritime National Wildlife Refuge (Fall, 2021). Sockeye Salmon are the primary species harvested by Federally qualified subsistence users with a 3-year average harvest of 216 fish (**Table 1**) Coho Salmon are the second most frequently harvested fish with a 3-year average harvest of

48 fish. Fish harvested under State sport fish regulation in the Kodiak management area are estimated through the Alaska Sport Fishing Harvest Survey. Because of low response rates, there are no estimates of Sockeye or Coho Salmon harvests in the fresh water streams of Afognak Island (Dye, 2020).

**Table 1.** Federal subsistence salmon harvest in Kodiak area (Fall 2021).

| Year    | Permits Issued | Permits Returned | Chinook Salmon | Sockeye Salmon | Coho Salmon | Chum Salmon | Pink Salmon | Total |
|---------|----------------|------------------|----------------|----------------|-------------|-------------|-------------|-------|
| 2015    | 18             | 16               | 0              | 52             | 0           | 0           | 0           | 52    |
| 2016    | 48             | 32               | 20             | 100            | 75          | 0           | 3           | 246   |
| 2017    | 55             | 30               | 0              | 383            | 57          | 0           | 5           | 508   |
| 2018    | 35             | 24               | 0              | 119            | 0           | 0           | 0           | 178   |
| Average | 39             | 26               | 5              | 164            | 33          | 0           | 2           | 246   |

### Cultural Knowledge and Traditional Practices

The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq; the Koniag/Qikertarmiut; and Eastern European, Asian, and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence resources have been marine animals, shellfish, near-shore fisheries, sea or littoral birds and their eggs, and salmon harvested primarily in spawning areas (Clark 1998: 176). Salmon remain one of the primary components of subsistence diets for rural residents in this region (Fall and Walker 1993; Marchioni et al. 2016; Wolf and Walker 1987). Historically, some of the most-utilized harvest areas for subsistence salmon in the Kodiak archipelago have been the Buskin and Pasagshak Rivers located on the northern end of Kodiak Island and the southeast side of Afognak Island at Litnik (Anderson et al. 2016; Brown et al. 2021).

Today, the Kodiak Island Borough has a population of 13,383 residents (US Census Bureau 2020). Residents throughout the Kodiak Area currently harvest salmon using subsistence gillnets and seines, rod and reel, and removal of salmon from commercial catch for home use (Marchioni et al. 2016). Access for salmon harvesting is often obtained through social networks, and salmon harvests are regularly shared between community members (Marchioni et al. 2016). Harvested salmon are typically dried, smoked, or canned to preserve the resource for use out of season (Marchioni et al. 2016). These subsistence practices form a key basis of cultural identity, family life, and community well-being in the area (Fall 1999). When salmon are scarce, area residents must rely upon secondary subsistence resources and/or turn to expensive store-bought foods (Marchioni et al. 2016). According to the most recent Alaska subsistence and personal use fisheries report (Brown et al. 2021: 168), “the total reported subsistence salmon harvest for the Kodiak Area in 2018 was 17,459 fish, less than the reported 2017 harvest and well below the recent 5-year (2013–2017) and 10-year (2008–2017) averages of 26,390 salmon and 28,364 salmon, respectively.” The significant reductions in salmon stock available for

subsistence harvest in recent years have caused increasing concerns about food security and the ability to maintain subsistence lifestyles in the region (KARAC 2021).

**Effects**

Currently, harvest of Sockeye and Coho salmon is allowed under State sport fish regulation in this area while harvest is prohibited for Federally qualified subsistence users. If the closure is rescinded, Federally qualified subsistence users would be allowed to harvest salmon using the methods described on the Federal permit which allows the use of nets and a more liberal harvest than sport harvest. To conserve fish populations, the Federal in-season manager could issue a special action to set provisions for the fishery, such as stipulating gear types like rod and reel only and setting conservative harvest limits.

If the closure were retained, sport harvest of salmon would continue while Federally qualified subsistence users would be prohibited from harvesting salmon under Federal subsistence regulations in this location. There is opportunity for harvest outside of these closed waters.

**OSM PRELIMINARY CONCLUSION**

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

The modified regulation should read:

**Kodiak Area – Salmon**

**50 CFR 100.27(e)(9)**

*(iii) You may not subsistence fish for salmon in the following locations:*

*(F) ~~All fresh water systems of Afognak Island.~~*

**Justification**

These Afognak Island freshwaters are currently closed to the harvest of salmon by Federally qualified subsistence users but remain open to other uses. Section 802(2) of ANILCA requires that subsistence uses by rural residents of Alaska shall by “the priority consumption uses of all such resources on the public lands of Alaska”. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries. The in-season manager can use this authority to manage the fishery in

the short term. Harvests levels would likely remain unaffected as Federally qualified users already participate in the State sport fishery. A proposal outlining specific parameters can be submitted during a future fisheries regulatory cycle if it is desired.

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| <b>FCR23–19 Executive Summary</b>  |  |
|--|--|
| <b>General Description</b>   | FCR23-19 is a routine review of the closure to harvest of salmon by Federally qualified subsistence users in the closed waters of Selief Bay Creek.  |
| <b>Current Regulation</b>  | <p><b>Kodiak Area - Salmon</b></p> <p><b>§___.27(e)(9) Kodiak Area</b></p> <p>***</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p>***</p> <p><i>(C) All waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |

**FEDERAL FISHERIES CLOSURE REVIEW  
FCR23-19**

**Issue**

FCR23-19 is a standard review of a Federal fishery closure to salmon fishing near the mouth of Selief Bay Creek. It is the Federal Subsistence Board's (Board) 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. When considering where the closure occurs, there does not seem to be any Federal jurisdiction and is believed to be an error from when the regulations were carried over. This administrative change would remove the language specifying the closure area.

**Closure Location:** Selief Bay Creek - Salmon

**Current Federal Regulation**

**Kodiak Area - Salmon**

**§ \_\_.27(e)(9) Kodiak Area**

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

\*\*\*

*(C) All waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek.*

**Relevant Federal Regulations**

*§ \_\_.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.*

*(a) Definitions. The following definitions apply to all regulations contained in this part:*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

*§ \_\_.27 Subsistence taking of fish*

\*\*\*

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

\*\*\*

*(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.*

\*\*\*

*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

*§ \_\_.27(e)(9) Kodiak Area*

*(ii) You may take salmon for subsistence purposes 24 hours a day from January 1 through December 31, with the following exceptions:*

*(A) From June 1 through September 15, you may not use salmon seine vessels to take subsistence salmon for 24 hours before or during, and for 24 hours after any State open commercial salmon fishing period. The use of skiffs from any type of vessel is allowed.*

*(B) From June 1 through September 15, you may use purse seine vessels to take salmon only with gillnets, and you may have no other type of salmon gear on board the vessel.*

\*\*\*

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

*(A) In the Federal public waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within 1 mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained upon request.*

*(B) In the remainder of the Kodiak Area not described in paragraph (e)(9)(v)(A) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.*

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

*(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.*

*(viii) You may take salmon only by gillnet, rod and reel, or seine.*

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

**Closure Dates:** August 15 through Sept 30

### **Current State Regulation**

#### **Kodiak Area**

*5 AAC 01.525*

*The following waters are closed to the subsistence taking of salmon:*

*(4) all waters closed to commercial salmon fishing in the Barabara Cove, Chiniak Bay, Saltery Cove, Pasagshak Bay, Monashka Bay and Anton Larsen Bay as described in 5 AAC 18.350, and all waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek and north and west of a line from the tip of Last Point to the tip of River Mouth Point in Afognak Bay;*

### **Relevant State Regulations**

#### Subsistence Regulations

#### **Kodiak Area**

*5 AAC 01.520. Lawful gear and gear specifications*

*(a) Unless restricted by this section or under the terms of a subsistence fishing permit, fish may be taken by gear listed in 5 AAC 01.010(a).*

*(b) Salmon may be taken only by gillnet and seine. Gillnet and seine gear may not be operated in a manner to obstruct more than one-half the width of any waterway and any channel or side channel of a waterway.*

\*\*\*

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

*5 AAC 01.530. Subsistence fishing permits*

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

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

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

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

*(c) A subsistence permit holder shall record the number, or if for herring, the number of pounds, of subsistence fish taken by that subsistence permit holder each year as described in this subsection. The subsistence permit holder shall record all harvested fish on the permit, before concealing the fish from plain view or transporting the fish from the fishing site. The subsistence permit holder must return the permit to the local representative of the department by February 1 of the year following the year the permit was issued. For the purposes of this subsection, "fishing site" means the location where the fish is removed from the water and becomes part of the permit holder's limit.*

**Sport Regulations**

**Kodiak Area**

**5 AAC 64.022**

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual, and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

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

*(A) in fresh waters:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five king salmon; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; king salmon less than 20 inches in length caught in fresh water do not count toward the annual limit;*

*(B) in salt waters: bag and possession limit of two fish; no size limit; no annual limit; a harvest record is not required;*

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

*(A) 20 inches or greater in length; bag and possession limit of five fish, of which only two may be coho salmon and only two may be sockeye salmon;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish*

*\*\*\**

*(c) In the Kodiak Remote Zone, the following bag and possession limits apply to salmon, other than king salmon:*

*(1) for salmon, other than king salmon, 20 inches or greater in length, the bag limit is five fish and 10 fish in possession;*

*(2) for salmon, other than king salmon, less than 20 inches in length, the bag and possession limit is 10 fish.*

**Regulatory Year Initiated:** 1992

#### **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. This closure pertains to Federal marine waters within 100 yards seaward of the terminus of Selief Bay Creek (**Figure 1**). During review of the closure area, it appears that there is no Federal jurisdiction in these waters. If the terminus is where freshwater meets saltwater at mean high tide, there are no Federal public waters that fit within the closure area definition. Seaward of the Selief Bay Creek terminus is state managed waters, and inland of the terminus is outside of the State commercial closed marine waters described in the closure.



**Figure 1.** Selief Bay closure area near the terminus of Selief Bay Creek located on Raspberry Island.

**Customary and Traditional Use Determination**

Residents of the Kodiak Island Borough, except those residents on the Kodiak Coast Guard Base, have a customary and traditional use determination for Salmon in the Kodiak Area, except the Mainland District where all rural residents have a customary and traditional use determination for salmon.

**Regulatory History**

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940).

These regulations incorporated many provisions from State of Alaska subsistence fishing regulations that previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner and has not been subsequently modified.

#### **Closure last reviewed**

There have been no previous reviews of this closure.

#### **Justification for Original Closure**

There is no Federal Subsistence Board justification for the original closure as it was incorporated from the State subsistence fishing regulations.

#### **Council Recommendation for Original Closure**

N/A

#### **State Recommendation for Original Closure**

N/A

#### **Biological Background**

Very little information is available on the fish species of Selief Bay Creek and their associated run timing or abundance. The Alaska Department of Fish and Game Anadromous Fish Catalog indicates Chum Salmon, Coho Salmon, Pink Salmon, Sockeye Salmon, Dolly Varden and Steelhead inhabit Selief Bay Creek. Abundance of these species is unknown; however, the runs are likely small. Hatchery or wild origins of the salmon are also unknown however a majority of the fish caught in the nearshore of Selief Bay are likely hatchery origin fish bound for Selief Bay Creek or other nearby systems.

#### **Cultural Knowledge and Traditional Practices**

The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq, the Koniag/Qikertarmiut, and Eastern European and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence resources have been marine animals, shellfish, near-shore fisheries, sea or littoral birds and their eggs, and salmon harvested primarily in spawning streams (Clark 1998: 176). Salmon remain one of the primary components of subsistence diets for rural residents in this region (Fall and Walker 1993; Marchioni et al. 2016; Wolf and Walker 1987). Historically, some of the most-utilized harvest areas for subsistence salmon in the Kodiak archipelago have been the Buskin and Pasagshak Rivers located on the northern end of Kodiak Island and the southeast side of Afognak Island at Litnik (Anderson et al. 2016; Brown et al. 2021).



Today, the Kodiak Island Borough has a population of 13,383 residents (US Census Bureau 2020). Residents throughout the Kodiak Area currently harvest salmon using subsistence gillnets and seines, rod and reel, and removal of salmon from commercial catch for home use (Marchioni et al. 2016). Access for salmon harvesting is often obtained through social networks, and salmon harvests are regularly shared between community members (Marchioni et al. 2016). Harvested salmon are typically dried, smoked, or canned to preserve the resource for use out of season (Marchioni et al. 2016). These subsistence practices form a key basis of cultural identity, family life, and community well-being in the area (Fall 1999). When salmon are scarce, area residents must rely upon secondary subsistence resources and/or turn to expensive store-bought foods (Marchioni et al. 2016). The significant reductions in salmon stock available for subsistence harvest in recent years have caused increasing concerns about food security in the region (KARAC 2021). According to the most recent Alaska subsistence and personal use fisheries report (Brown et al. 2021: 168), “the total reported subsistence salmon harvest for the Kodiak Area in 2018 was 17,459 fish, less than the reported 2017 harvest and well below the recent 5-year (2013–2017) and 10-year (2008–2017) averages of 26,390 salmon and 28,364 salmon, respectively.”

### Harvest History

Very little information is available for the harvest of salmon in the vicinity of Selief Bay Creek. Annual rod and reel harvest surveys are completed under State Sport Fish Division and are tracked through a statewide mail-out survey of a random sample of sport fish license holders. Harvest for the Afognak area indicate annual harvest of salmon can vary year to year with a low harvest of 1,081 salmon in 2018 and a high harvest of 8,209 salmon in 2013. Coho Salmon are considered the primary harvest of sport anglers. Chinook and Sockeye salmon are harvested in smaller numbers (**Table 1**). Federal subsistence permits are needed to harvest salmon in the Federal public waters. In 2021, 18 Federal permits were issued from the Kodiak National Wildlife Refuge, and 4 permits were returned reporting a harvest of 81 Sockeye and 24 Chinook salmon.

**Table 1.** Kodiak sport fish harvest estimates for boat based anglers on Afognak Island Area from 2010 to 2019.

| Species             | 2010        | 2011        | 2012        | 2013        | 2014        | 2015        | 2016        | 2017        | 2018        | 2019        |
|---------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Chinook Salmon      | 709         | 316         | 410         | 1501        | 1063        | 1056        | 1026        | 423         | 236         | 925         |
| Coho Salmon         | 3857        | 2536        | 2211        | 4594        | 1915        | 1879        | 609         | 961         | 845         | 2584        |
| Sockeye Salmon      | 250         | 492         | 1166        | 1760        | 526         | 501         | 272         | 369         | 0           | 384         |
| Pink Salmon         | 400         | 129         | 189         | 295         | 140         | 381         | 439         | 18          | 0           | 626         |
| Chum Salmon         | 50          | 0           | 59          | 59          | 0           | 196         | 89          | 0           | 0           | 0           |
| <b>Salmon Total</b> | <b>5266</b> | <b>3473</b> | <b>4035</b> | <b>8209</b> | <b>3644</b> | <b>4013</b> | <b>2435</b> | <b>1771</b> | <b>1081</b> | <b>4519</b> |

### Effects

If the closure is rescinded, all erroneous language regarding Selief Bay Creek closure would be removed from the regulations to reduce user confusion.

If the closure is retained, the jurisdictional issue would remain in the Federal regulations.

## OSM PRELIMINARY CONCLUSION

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

The modified regulation should read:

### Kodiak Area - Salmon

#### §\_\_\_.27(e)(9) Kodiak Area

(iii) *You may not subsistence fish for salmon in the following locations:*

~~(C) All waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek.~~

### Justification

The Selief Bay Creek area closure has been found to be erroneous as there is no Federal jurisdiction in this location. This is the first time that this closure has been under review since its adoption and it should be removed from the regulations.

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| <b>FCR23-21 Executive Summary</b>  |   |
|--|---|
| <b>General Description</b>   | FCR23-21 is a routine review of the closure to harvest of King Crab by non-Federally qualified subsistence users in the marine waters near Womens Bay, Gibson Cove, Karluk River and Afognak surrounding marine waters.   |
| <b>Current Regulation</b>  | <p><b>§ __.28(i)(4) Kodiak Area</b></p> <p>***</p> <p><i>(iv) In the subsistence taking of King Crab:</i></p> <p>***</p> <p><i>(E) The waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line 1/2 mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of King Crab except by Federally qualified subsistence users.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Retain status quo</b>  |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |   |
| <b>Interagency Staff Committee Comments</b>                                  |   |
| <b>ADF&amp;G Comments</b>  |   |
| <b>Written Public Comments</b>   | <b>None</b>   |

**FEDERAL FISHERIES CLOSURE REVIEW  
FCR23-21**

**Issue**

FCR23-21 is a standard review of a Federal fishery closure to King Crab harvest by non-Federally qualified in the Kodiak and Afognak areas. It is the Federal Subsistence Board's (Board) 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:** Kodiak Area and Afognak Area – King Crab

**Current Federal Regulation**

**§ \_\_.28(i)(4) Kodiak Area**

\*\*\*

*(iv) In the subsistence taking of King Crab:*

\*\*\*

*(E) The waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line 1/2 mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of King Crab except by Federally qualified subsistence users.*

**Closure Dates:** June 1 – January 31

**Current State Regulation**

Subsistence Regulations

*5 AAC 02.005. Subsistence fishing permitted*

*Shellfish 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.*

**Kodiak Area**

*5 AAC 02.420. Subsistence King Crab fishery*

*(a) In the subsistence taking of King Crab,*

- (1) the annual limit is three King Crab for a household;*
- (2) all King Crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;*
- (3) notwithstanding 5 AAC 02.010(i), no more than one King Crab pot per person or per vessel may be used to take King Crab; in addition to the marking requirements specified in 5 AAC 02.010(e), a King Crab pot must have "King Crab" legibly inscribed on the keg or buoy attached to the King Crab pot;*
- (4) King Crab may be taken only from June 1 through January 31, except that the subsistence taking of King Crab is prohibited in waters 25 fathoms or more in depth during the 14 days immediately before the opening of a commercial king or Tanner crab fishing season in the location;*
- (5) only male King Crab seven inches or greater in width of shell may be taken or possessed.*

*(b) In this section, "King Crab pot" is a pot that is no more than 10 feet long by 10 feet wide by 42 inches high with rigid tunnel eye openings that individually are no less than five inches in any one dimension, with tunnel eye opening perimeters that individually are more than 36 inches or a pot that is no more than 10 feet long by 10 feet wide by 42 inches high and that tapers inward from its base to a top consisting of one horizontal opening of any size.*

## Sport Regulations

### **Kodiak Area**

*5 AAC 64.022 Waters; seasons; bag, possession, annual, and size limits; and special provisions for the Kodiak Area*

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual, and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

*\*\*\**

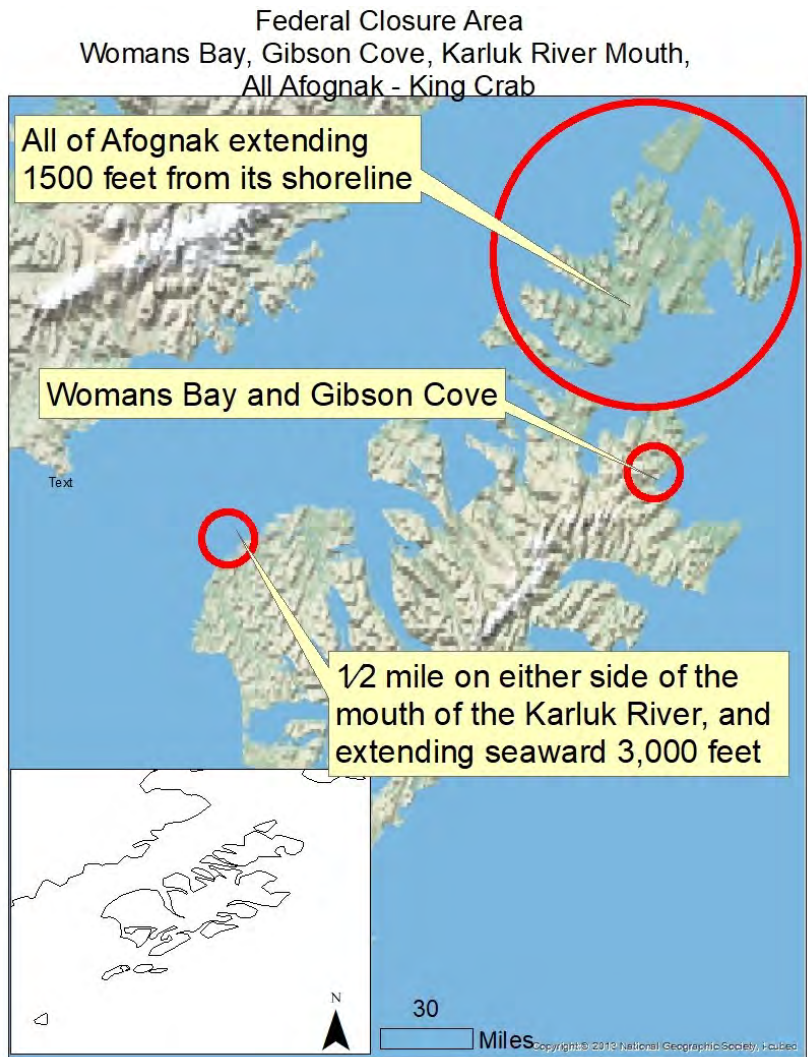
*(10) King Crab: no open season; may not be retained or possessed;*

**Regulatory Year Initiated:** 1995

The Board closure decision was made November 14, 1994 (FSB 1994), the regulation was initially published February 1995 in the Federal Register (60 FR 10317), and the final regulation was published in June 1995.

**Extent of Federal Public Lands/Waters**

For the purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3 This proposal will pertain to Federal marine waters of the Pacific Ocean enclosed by the boundaries of Women’s Bay, Gibson Cove, and an area defined by a line 1/2 mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island (**Figure 1**).



**Figure 1.** Women’s Bay, Gibson Cove, ½ mile on either side of the mouth of the Karluk River and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of King Crab.

## **Customary and Traditional Use Determination**

Residents of the Kodiak Island Borough, except those residents on the Kodiak Coast Guard Base, have a customary and traditional use determination for King Crab in the Kodiak Area, except for the Semidi Island, the North Mainland, and the South Mainland Sections.

## **Regulatory History**

The initial closure was the result of Federal Subsistence Board deliberations on RFR94-03 submitted by the Alaska Department of Fish and Game (ADF&G) requesting that Federal subsistence harvests of Red King Crab (*Paralithodes camtschaticus*) be restricted to males with a shell size greater than or equal to seven inches. This would have aligned Federal with existing State regulations. The Federal Subsistence Board did not adopt a size limit, but instead closed Federal public waters to non-Federally qualified users per the recommendation of the Interagency Staff Committee (FSB 1994).

In 2002, the Federal Subsistence Board acted on FP03-07, submitted by the Kodiak National Wildlife Refuge, which requested a decrease in the annual harvest limit from six to three male Red King Crabs per household and adoption of a seven-inch shell width minimum size limit (FSB 2002). Following the recommendation of the Kodiak/Aleutians Subsistence Regional Advisory Council, the Board adopted the minimum shell width requirement along with a gear reduction limit of one pot of any size but did not reduce the harvest limit. This action aligned Federal regulations for shell size and gear with those of the State but maintained the closure to non-Federally qualified users and allowed a greater harvest limit for Federally qualified users.

While the State has closed commercial fishing, it still allows subsistence fishing for Red King Crab in the Kodiak Area. However, in 1996, the Alaska Board of Fisheries reduced the subsistence daily bag and possession limit for Red King Crab from six per person to three per household per year due to conservation concerns. The State has continued to oppose proposals seeking an increase in these harvest limits. For example, the 2005 regulatory proposal #434, which sought to increase the subsistence annual household limit for Red King Crab in the Kodiak Area from three to ten, was opposed by the ADF&G (ADF&G 2005) and subsequently failed to pass at the Alaska Board of Fisheries meeting (ABF 2005) for conservation concerns.

**Closure last reviewed: 2010**

## **Justification for Original Closure (ANILCA Section 815 (3) criteria)**

The closure was made for resource conservation concerns.

Section §815(3) of ANILCA states: *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...*



### **Council Recommendation for Original Closure**

The Kodiak-Aleutians Subsistence Regional Advisory Council did not discuss or recommend a closure of this fishery in its review of RFR94-03, but it did recommend rejection of the proposed seven-inch minimum size limit.

### **State Recommendation for Original Closure**

The State did not request, recommend, or support a closure to non-Federally qualified subsistence users in 1994, but had only requested adoption of a seven-inch minimum size limit (RFR94-03). The State had already adopted a seven-inch minimum size limit for Kodiak Area subsistence Red King Crab fisheries in 1990.

### **Biological Background**

The 2021 large-mesh bottom trawl survey was conducted in known crab habitat using a fixed-grid station design developed in 1988. Total survey station area surveyed was approximately 15,500 km<sup>2</sup> at depths greater than 20 fathoms. In 2021, 337 successful bottom trawl hauls were conducted in 333 stations. Red King Crab were caught in 13.0% of Kodiak Area hauls totaling 179 males and 220 females (Spalinger and Knutson 2021). Of the 179 males, 67 were of legal size (>164mm; 37%)

The 2021 Kodiak Red King Crab abundance was estimated at 255,185 crabs, which was more than the estimated 121,284 crabs caught in 2020. The largest increases were observed among females and pre-recruit (class) IV males, while legal male abundance declined. The total estimated abundance of legal males decreased from 94,164 crabs in 2020 to 45,930 crabs in 2021 and represented 37.7% of the total male abundance.

Mean King Crab size was 129.0 mm carapace-length (CL) for males and 117.1 mm CL for females. Just over half of female King Crab were juvenile, while the majority of males were sublegal. During the 2021 Kodiak Area survey, 53.4% (n=55) of all mature females examined had an egg clutch that was more than half full, which was lower than 2020 (64.0%) (Spalinger and Knutson 2021).

No specific management objective has been set for either the Federal or State Red King Crab subsistence fisheries in the Kodiak Area. However the State does set a total threshold abundance of fertilized females for determining when to reopen the commercial fishery (Pengilly and Schmidt 1995). State trawl survey estimates have continued to remain well below the threshold level.

Women's Bay has been recognized as an important nursery area for Red King Crab, and studies of juveniles have shown that Women's Bay has much higher numbers than two nearby bays (Cummiskey et al. 2008, Dew 1991, Dew et al. 1992, and FSB 2002).

Since relatively few Red King Crabs are captured in the State trawl survey each year, it is not possible to accurately determine trends since small differences in catches result in large differences in

population estimates (Spalinger 2009). However, these surveys show that the Red King Crab stock in the Kodiak Area has remained at a very low abundance with no indication of rebuilding.

### **Cultural Knowledge and Traditional Practices**

The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq, the Koniag/Qikertarmiut, and Eastern European and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence resources have been marine animals, near-shore fisheries, shellfish, sea or littoral birds and their eggs, and salmon harvested primarily from spawning streams (Clark 1998: 176).

Today, the Kodiak Island Borough has a population of approximately 13,383 residents (US Census Bureau 2020). Residents throughout the area depend upon shellfish as a key part of their subsistence base (Mishler 2001). The winter months have traditionally been a favored time for harvesting shellfish, which can be particularly important food sources when fish and other game animals are scarce (Mishler 2001). Access for shellfish harvesting is often obtained through social networks, and shellfish are regularly shared between community members (Mishler 2001; Sill et al. 2021). These subsistence practices form a key basis of cultural identity, family life, and community well-being in the area (Fall 1999). When shellfish are scarce, area residents must turn to secondary subsistence resources and expensive store-bought foods (Mishler 2001).

A 2018 study found that King Crab were one of the most regularly used subsistence shellfish species in Akhiok, Old Harbor, and Larsen Bay (Sill et al. 2021). However, King Crab have not composed a significant portion of local subsistence diets in the Kodiak area since the drastic decline in stocks witnessed in the 1980s (Sill et al. 2021). As Bruce Short explained at a winter KARAC (2019, 152) meeting, overharvesting and the emergence of sea otters has played a dramatic role in the decline of King Crab and other shellfish in the Kodiak Area:

“When I got old enough to have my own boat and everything I always went out and caught crab, and eventually I bought a place in Anton Larsen Island and wanted to live kind of a subsistence lifestyle – small boat fisheries. And the place was loaded with crab. There were King Crab, tanner crab, dungeness, lots of butter clams, lots of steamers. I thought I was in hog heaven. But, I saw the first otter in 1979, out at Craig Point which is over by Kukak Bay. By the mid '80s, they'd moved into Anton Larsen Bay, the bay where I live. It ices over in the winter, so it's a good place for marine mammals to haul out. We have lots of seals that come in there now too. But I commercially fished in there one year in 1980 with my dory. I mean, there were so many crab in there I could -- I pulled by hand, didn't have hydraulics or anything, just a little boat. But, it was enough to make, you know, a good living there. And I fished commercially in '83 which was the last year that there was a King Crab season here. And my impression was really that it had been overfished because the end of the season everyone had their pots, I mean, crab are a schooling animal, and all the pots were just three spots out in Marmot that was the only place there were any crab left. There were a few after that that survived inside the bay and I always caught some of those and there were always dungeness, but once the otters moved in in the mid '80s, and we had 200 coming in there in the wintertime, they essentially wiped out all the crab. They started with the crab, then they went to the clams, they got the gaper clams, then they went to the butter clams, and now there's none of

that in Anton Larsen, absolutely none. The otter population has dwindled, there's probably 70 or 80 that overwinter there now. There's more seals, there are up to 200 seals sometimes that overwinter there..."

Women's Bay has also been an important location for the harvesting of shellfish like King Crab due to its historical productivity and current proximity to the Kodiak Island road network (KARAC 2010). This ease of access at Women's Bay is particularly important for older residents for whom travel to more remote sites can be difficult (KARAC 2010). However, Women's Bay and Gibson Cove have also been identified as key nurseries within the greater Chiniak area for juvenile King Crab, leading to ongoing discussions about the best ways to maintain these nurseries to promote the recovery of King Crab stocks (KARAC 2010).

### **Harvest History**

Historically, there were large numbers of Red King Crab in the Kodiak Management Area, and this species supported a large commercial fishery along with other uses (Mattes and Spalinger 2007). In the 1970s the commercial harvest of Red King Crab in the Kodiak Area ranged between 12 and 24 million pounds. A near peak commercial harvest of Red King Crab occurred in the 1980/81 season, but three years later the harvest precipitously declined. The four top historical producing areas were closed to commercial Red King Crab fishing for the first time, but the stocks have still not recovered.

Subsistence crab harvests in the Kodiak Area dropped dramatically with the decline of the Red King Crab stock. The estimated subsistence harvest for the Kodiak vicinity was almost 18,000 Red King Crabs in 1982 but declined to less than 6,000 Red King Crabs by the 1990s (FSB 2002 and 1994). About one quarter of this harvest may have been taken within the Chiniak Bay area, which includes the Federal public waters of Women's Bay and Gibson Cove.

Subsistence Red King Crab harvests in the Kodiak Area have been very small since the collapse of the stock (FSB 2002). An ADF&G subsistence permit is required to participate in the Federal subsistence crab fishery, and annual harvests documented through these permits have often been well under 100 Red King Crabs per year.

### **Effects**

If the closure is retained, Federally qualified subsistence users would continue to be allowed to harvest King crab under Federal regulations, while non-Federally qualified would be prohibited from harvesting King Crab. This would keep in place a rural priority for subsistence while restricting nonsubsistence use during a time when crab stocks to continue trying to rebound.

If the closure is rescinded, non-Federally qualified users would still not be allowed to harvest King Crab because the harvest remains closed under State regulations. This change would not align Federal subsistence regulations with current State sport and State subsistence regulations.

**OSM PRELIMINARY CONCLUSION**

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

**Justification**

The conservation concern for King Crab continues in the Kodiak Area, including in the Federal public waters in Women's Bay, Gibson Cove, and near shore waters around the Karluk River mouth and Afognak Island. The Kodiak area King Crab stock remains at very low abundance with no indication of improvement over the near term. Marine waters under Federal jurisdiction in Women's Bay are a known nursery area for the larger Chiniak Bay and are easy to access from the Kodiak road system. Restricting the taking of King Crab in Federal public waters for non-subsistence uses is necessary for the conservation of the King Crab resource and to help ensure continuation of Federal subsistence uses.

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| <b>FCR23-22 Executive Summary</b>  |  |
|--|--|
| <b>General Description</b>   | FCR23-22 is a routine review of the closure to harvest of salmon by Federally qualified subsistence users in Little Kitoi Creek.   |
| <b>Current Regulation</b>  | <p><b>§ __.27(e)(9) Kodiak Area</b></p> <p>***</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p>***</p> <p><i>(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |

**FEDERAL FISHERIES CLOSURE REVIEW  
FCR23-22**

**Issue**

FCR23-22 is a standard review of a Federal fishery closure to salmon fishing in Little Kitoi Creek. It is the Federal Subsistence Board's (Board) 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:** Little Kitoi Creek - Salmon

**Current Federal Regulation**

**§\_\_.27(e)(9) Kodiak Area**

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

\*\*\*

*(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek.*

**Relevant Federal Regulations**

**§\_\_.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.**

*(a) Definitions. The following definitions apply to all regulations contained in this part:*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

**§\_\_.27 Subsistence taking of fish**

\*\*\*

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

\*\*\*

*(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.*

\*\*\*

*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

**§ \_\_.27(e)(9) Kodiak Area**

\*\*\*

*(ii) You may take salmon for subsistence purposes 24 hours a day from January 1 through December 31, with the following exceptions:*

*(A) From June 1 through September 15, you may not use salmon seine vessels to take subsistence salmon for 24 hours before or during, and for 24 hours after any State open commercial salmon fishing period. The use of skiffs from any type of vessel is allowed.*

*(B) From June 1 through September 15, you may use purse seine vessels to take salmon only with gillnets, and you may have no other type of salmon gear on board the vessel.*

\*\*\*

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

*(A) In the Federal public waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within 1 mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained upon request.*



*(B) In the remainder of the Kodiak Area not described in paragraph (e)(9)(v)(A) of this section, there is no annual harvest limit for a subsistence salmon fishing permit holder.*

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

*(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.*

*(viii) You may take salmon only by gillnet, rod and reel, or seine.*

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

**Closure Dates:** August 15 through Sept 30

### **Current State Regulation**

#### **Kodiak Area**

#### **5 AAC 01.525**

*The following waters are closed to the subsistence taking of salmon:*

\*\*\*

*(7) from August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek;*

\*\*\*

*(11) from August 15 through September 30, all waters seaward of the terminus of Big Kitoi Creek (stream No. 252-324) west of a line from 58\_ 11.53' N. lat., 152\_ 21.77' W. long., to 58\_ 11.25' N. lat., 152\_ 21.69' W. long., and all waters near the terminus of Little Kitoi Creek (stream No. 252-323) west of a line from 58\_ 11.69' N. lat., 152\_ 21.59' W. long., to 58\_ 11.55' N. lat., 152\_ 21.59' W. long.;*

### **Relevant State Regulations**

#### Subsistence Regulations

#### **Kodiak Area**

#### **5 AAC 01.520. Lawful gear and gear specifications**

*(a) Unless restricted by this section or under the terms of a subsistence fishing permit, fish may be taken by gear listed in 5 AAC 01.010(a).*

*(b) Salmon may be taken only by gillnet and seine. Gillnet and seine gear may not be operated in a manner to obstruct more than one-half the width of any waterway and any channel or side channel of a waterway.*

\*\*\*

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

### **5 AAC 01.530. Subsistence fishing permits**

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

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

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

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

*(c) A subsistence permit holder shall record the number, or if for herring, the number of pounds, of subsistence fish taken by that subsistence permit holder each year as described in this subsection. The subsistence permit holder shall record all harvested fish on the permit, before concealing the fish from plain view or transporting the fish from the fishing site. The subsistence permit holder must return the permit to the local representative of the department by February 1 of the year following the year the permit was issued. For the purposes of this subsection, "fishing site" means the location where the fish is removed from the water and becomes part of the permit holder's limit.*

### **5 AAC 01.525. Waters closed to subsistence fishing**

*The following waters are closed to the subsistence taking of salmon:*

*(7) from August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek;*

Sport Regulations

**Kodiak Area**

**5 AAC 64.022**

*(a) Unless otherwise specified in this section, 5 AAC 64.051, or 5 AAC 64.060, or by an emergency order issued under AS 16.05.060, the following are the bag, possession, annual, and size limits, and special provisions for finfish and shellfish in the waters of the Kodiak Area:*

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

*(A) in fresh waters:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five king salmon; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; king salmon less than 20 inches in length caught in fresh water do not count toward the annual limit;*

*(B) in salt waters: bag and possession limit of two fish; no size limit; no annual limit; a harvest record is not required;*

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

*(A) 20 inches or greater in length; bag and possession limit of five fish, of which only two may be coho salmon and only two may be sockeye salmon;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish*

**\*\*\***

*(c) In the Kodiak Remote Zone, the following bag and possession limits apply to salmon, other than king salmon:*

*(1) for salmon, other than king salmon, 20 inches or greater in length, the bag limit is five fish and 10 fish in possession;*

*(2) for salmon, other than king salmon, less than 20 inches in length, the bag and possession limit is 10 fish.*

*In addition to those waters closed as specified in 5 AAC 64.022(b), the following waters are closed to all sport fishing in the Kodiak Area, as follows:*

*(4) from January 1 - December 31, in Big Kitoi Bay, all waters seaward of the terminus of Big Kitoi Creek to a straight line extending northwesterly from 58\_ 11.43' N. lat., 152\_ 22.00' W. long., to 58\_ 11.52' N. lat., 152\_ 22.07' W. long.; all waters between that line and a line running northwesterly from 58\_ 11.34' N. lat., 152\_ 21.66' W. long., to 58\_ 11.45' N. lat., 152\_ 21.84' W. long., are closed to sport fishing from August 15 - September 30;*

**Regulatory Year Initiated:** 1992

**Extent of Federal Public Lands/Waters**

For the purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3 This closure pertains to Federal marine waters within 500 yards seaward of the terminus of Little Kitoi Creek (**Figure 1**).

Federal Closure Area  
Little Kitoi Creek - Salmon



**Figure 1.** Little Kitoi Creek fisheries closure area within Kitoi Bay.

**Customary and Traditional Use Determination**

Residents of the Kodiak Island Borough, except those residents on the Kodiak Coast Guard Base, have a customary and traditional use determination for Salmon in the Kodiak Area, except the Mainland District where all rural residents have a customary and traditional use determination for salmon.

## **Regulatory History**

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations that previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner and has not been subsequently modified.

## **Closure last reviewed**

There have been no previous reviews of this closure.

## **Justification for Original Closure**

There is no Federal Subsistence Board justification for the original closure as it was incorporated from the State subsistence fishing regulations.

## **Council Recommendation for Original Closure**

N/A

## **State Recommendation for Original Closure**

N/A

## **Biological Background**

Little Kitoi Lake and Little Kitoi Creek are located approximately 0.5 miles north of the Kitoi Bay Hatchery, where Coho, Sockeye, Pink and Chum salmon adult egg takes occur at the weir. Little Kitoi Creek has a weir that monitors returning adult escapement and smolt outmigration simultaneously using a pipeline bypass adjacent to the adult fish pass. The hatchery has capacity to incubate 254 million salmon eggs and rear up to 180 million juveniles of all life stages (fry, fingerling, pre-smolt and smolt). The Chum Salmon run begins in early June, peaks in late June to early July, and ends in late July. The Pink Salmon return begins in mid-July, peaks in early to mid-August, and ends in late August to early September. The Coho Salmon run is expected to start in early August, peak in late August, and continue through early September. For the 2021 season, an estimated 128,000 Chum Salmon, 11.3 million Pink Salmon, 124,000 Coho Salmon, 15,000 Sockeye Salmon were expected to return to Kitoi Bay (Annual Management Plan 2021; Kitoi Bay Hatchery).

## **Cultural Knowledge and Traditional Practices**

The subsistence practices of the rural residents of the Kodiak Area reflect the cultural traditions of the Alutiiq/Sugpiaq; the Koniag/Qikertarmiut; and Eastern European, Asian, and American settlers. Indigenous populations have lived in the area for at least 7000 years, with subsistence economies largely based on the harvesting of maritime resources (Clark 1998). Key among these subsistence

resources have been marine animals, shellfish, near-shore fisheries, sea or littoral birds and their eggs, and salmon harvested primarily in spawning areas (Clark 1998: 176). Salmon remain one of the primary components of subsistence diets for rural residents in this region (Fall and Walker 1993; Marchioni et al. 2016; Wolf and Walker 1987). Historically, some of the most-utilized harvest areas for subsistence salmon in the Kodiak archipelago have been the Buskin and Pasagshak Rivers located on the northern end of Kodiak Island and the southeast side of Afognak Island at Litnik (Anderson et al. 2016; Brown et al. 2021).

Today, the Kodiak Island Borough has a population of 13,383 residents (US Census Bureau 2020). Residents throughout the Kodiak Area currently harvest salmon using subsistence gillnets and seines, rod and reel, and removal of salmon from commercial catch for home use (Marchioni et al. 2016). Access for salmon harvesting is often obtained through social networks, and salmon harvests are regularly shared between community members (Marchioni et al. 2016). Harvested salmon are typically dried, smoked, or canned to preserve the resource for use out of season (Marchioni et al. 2016). These subsistence practices form a key basis of cultural identity, family life, and community well-being in the area (Fall 1999). When salmon are scarce, area residents must rely upon secondary subsistence resources and/or turn to expensive store-bought foods (Marchioni et al. 2016). According to the most recent Alaska subsistence and personal use fisheries report (Brown et al. 2021: 168), “the total reported subsistence salmon harvest for the Kodiak Area in 2018 was 17,459 fish, less than the reported 2017 harvest and well below the recent 5-year (2013–2017) and 10-year (2008–2017) averages of 26,390 salmon and 28,364 salmon, respectively.” The significant reductions in salmon stock available for subsistence harvest in recent years have caused increasing concerns about food security and the ability to maintain subsistence lifestyles in the region (KARAC 2021).

### **Harvest History**

The vast majority of returning fish to Kitoi Bay are exclusively hatchery production stocks where most of the harvest are from commercial seiners and set gillnet fishers. Some harvest occurs from subsistence and recreational fishers but is thought to be very little. Subsistence and commercial fishermen harvest reporting aids in the management of the fishery and is conducted by the ADF&G Division of Commercial Fisheries through permits. Hatchery produced salmon are considered common property fisheries and the general public are allowed to harvest fish subject to State and Federal law. A proportion of the hatchery produced salmon returning to spawn are needed for brood stock, with an estimated 86,000 Chum Salmon, 118,000 Coho Salmon, 8,000 Sockeye Salmon are available for common property harvests. Pink Salmon available for harvests depends on a combination of marine survival, average adult fish weight, and Kodiak Region Aquaculture Association’s cost recovery harvest needs. Traditionally, portions of the Inner and Outer Kitoi, Izhut, and Duck Bay sections could close to commercial common property fishing for cost-recovery operations around August 1.

### **Effects**

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), “...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be

accorded priority over taking on such lands of fish and wildlife for other purposes.” There are currently nonsubsistence uses permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon at the terminus of Little Kitoi Creek, thereby providing priority consumptive use to Federally qualified subsistence users.

If the closure is rescinded, Federal subsistence regulations for the Kodiak Area would apply and the use of subsistence gillnets and setnets would take effect. However, there could be some level of user conflict between commercial and subsistence users in this same area. The Federal inseason manager could issue a special action to set provisions for the fishery that deviate from the general area regulations, such as stipulating gear types or areas and setting harvest limits if conditions warranted.

If the closure is retained, this area would continue to be excluded from Federal subsistence harvest

**OSM PRELIMINARY CONCLUSION**

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

The modified regulation should read:

**§ \_\_.27(e)(9) Kodiak Area**

\*\*\*

*(iii) You may not subsistence fish for salmon in the following locations:*

\*\*\*

*~~(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek.~~*

**Justification**

During August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek are currently closed to the harvest of salmon by Federally qualified subsistence users and State sport fishing; however, there are State subsistence salmon opportunities in adjacent marine waters. Federal subsistence opportunity in this location would afford a rural preference as set forth in Title VIII of ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries. The in-season manager could use this authority to manage the fishery in the short term and



implement additional measures such as a 300 foot reduced closure area to just below the weir to protect congregated fish and allow the safe operation of the weir. A proposal outlining specific parameters for this fishery may be submitted during the next fisheries cycle if desired.

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| <b>FCR21-13 Executive Summary</b>  |   |
|--|---|
| <b>General Description</b>   | FCR21-13 is a routine review of a Federal closure to salmon fishing at Russell Creek and Nurse Lagoon in the Alaska Peninsula Area.   |
| <b>Current Regulation</b>  | <p>§ __.27(e)(7) <i>Alaska Peninsula Area</i></p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(v) You may not subsistence fish for salmon in the following waters:</i></p> <p style="text-align: center;"><i>(A) Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon;</i></p> <p style="text-align: center;">***</p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>  |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |   |
| <b>Bristol Bay Subsistence Regional Advisory Council Recommendation</b>      |   |
| <b>Interagency Staff Committee Comments</b>                                  |   |
| <b>ADF&amp;G Comments</b>  |   |
| <b>Written Public Comments</b>   | <b>None</b>   |

**FEDERAL FISHERIES DRAFT CLOSURE REVIEW  
FCR21-13**

**Issue**

FCR21-13 is a routine review of a Federal closure to salmon fishing at Russell Creek and Nurse Lagoon in the Alaska Peninsula Area. 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:** Russell Creek and Nurse Lagoon—Salmon

**Current Federal Regulation**

§ \_\_\_\_.27(e)(7) *Alaska Peninsula Area*

\*\*\*

(v) *You may not subsistence fish for salmon in the following waters:*

(A) *Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon;*

\*\*\*

**Relevant Federal Regulations**

§ \_\_\_\_.25 *Subsistence taking of fish, wildlife, and shellfish: general regulations.*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

§ \_\_\_\_.27 *Subsistence Taking of Fish*

\*\*\*

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

\*\*\*

(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.*

\*\*\*

*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

\*\*\*

§\_\_\_\_.27(e)(7) Alaska Peninsula Area

\*\*\*

*(ii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit.*

*(iii) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.*

*(iv) You may take salmon at any time, except in those districts and sections open to commercial salmon fishing where salmon may not be taken during the 24 hours before and 12 hours following each State open weekly commercial salmon fishing period, or as may be specified on a subsistence fishing permit.*

\*\*\*

*(vi) You may take salmon by seine, gillnet, rod and reel, or with gear specified on a subsistence fishing permit. You may also take salmon without a permit by snagging (by handline or rod and reel), using a spear, bow and arrow, or capturing by bare hand.*

*(viii) You may not use a set gillnet exceeding 100 fathoms in length.*

*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on your subsistence fishing permit.*

Note: In the Alaska Peninsula Area, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (**Appendix 1**, see 5 AAC 01.420. Subsistence fishing permits)

**Closure Dates:** Year-round

**Current State Regulations**

Subsistence Regulations

*Alaska Peninsula Area*

*5 AAC 01.420. Lawful gear and gear specifications*

*(a) Salmon may be taken only by seine and gillnet, or with gear specified on a subsistence fishing permit.*

*\*\*\**

*(c) In waters open to commercial salmon fishing, salmon may be taken only with a set or drift gillnet that does not exceed 50 fathoms in total length.*

*(d) Except as specified in (a) and (c) of this section, a permit holder may not operate a*

*(1) set gillnet that is more than 100 fathoms in length; and*

*(2) drift gillnet that is more than 200 fathoms in length.*

*(e) A purse seine or hand purse seine may not exceed 250 fathoms in length or 375 meshes in depth. Seine mesh size may not exceed three and one-half inches stretched measure, except that the first 25 meshes above the leadline may not exceed seven inches stretched measure.*

*(f) A person may not operate subsistence fishing gear within 100 feet of a set gillnet.*

*\*\*\**

*5 AAC 01.430. Subsistence fishing permits*

*(a) Salmon, trout, and char may only be taken under the authority of a subsistence fishing permit. The department will only issue one permit per household.*

*(b) No more than 250 salmon may be taken for subsistence purposes, per household, unless otherwise specified by a local representative of the department on the subsistence fishing permit. A permit holder may obtain an additional permit from the department.*

*(c) A record of subsistence-caught fish must be kept on the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.*

*5 AAC 01.425 Waters closed to subsistence fishing*

*The following waters are closed to subsistence fishing for salmon:*

- (1) Russell Creek and Nurse Lagoon and within 500 yards from the stream terminus of Russell Creek and Nurse Lagoon;*

Sport Regulations

*Alaska Peninsula and Aleutian Islands Area*

*5 AAC 65.020. General provisions for seasons and bag, possession, annual, and size limits for the Alaska Peninsula and Aleutian Islands Area*

*Except as otherwise provided in 5 AAC 65.022, 5 AAC 65.051, or by an emergency order issued under AS 16.05.060, the seasons and bag, possession, annual, and size limits for finfish and shellfish in the Alaska Peninsula and Aleutian Islands Area are as follows:*

- (1) king salmon:*

*(A) in fresh waters: may be taken only from January 1 through July 25, except that king salmon may be taken in the Chignik River only from January 1 through August 9, and as follows:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five fish; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; no annual limit;*

*(B) in salt waters: may be taken from January 1 through December 31; bag and possession limit of two fish; no size limit; no annual limit;*

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

*(A) 20 inches or greater in length; bag limit of five fish and a possession limit of 10 fish;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish;*

\*\*\*

**Regulatory Year Initiated:** 1992

**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. Russell Creek consists of Federal public waters within and adjacent to the external boundaries of the Alaska Peninsula National Wildlife Refuge (**Figure 1**). Nurse Lagoon was at one time considered Federal public waters. The Secretaries of the Interior and Agriculture later determined that some marine waters, including Nurse Lagoon, were added to Federal subsistence regulation erroneously and should be removed (70 Fed. Reg. 247. 76407 [December 27, 2005]).



**Figure 1.** Map showing Trout Creek and Russell Creek salmon closures and areas used by residents of Cold Bay and King Cove to harvest salmon for subsistence: Mortensens Lagoon, Thin Point, and Leonard Harbor.

### **Customary and Traditional Use Determination**

Residents of the Alaska Peninsula Area have a customary and traditional use determination for all fish in the Alaska Peninsula Area.

### **Regulatory History**

In 1990, the Federal Subsistence Management Program adopted temporary subsistence management regulations for public lands in Alaska, which included this closure, to minimize disruption to the State's continuing fish and game management because of the uncertainty over the resumption of State management of subsistence yet still fulfilling the requirements of the Title VIII of ANILCA (55 Fed. Reg. 126; 27125, 27155 [June 29, 1990]).

### **Closure Last Reviewed**

A review was initiated during the 2021 fish proposal cycle and was recommended to be deferred by the Kodiak Aleutian Subsistence Regional Advisory Council to allow for additional feedback from the rural public in affected communities. The Board subsequently deferred the review until the 2023 fisheries regulatory cycle.

### **Justification for Original Closure**

In 1990, the Federal Subsistence Management Program adopted temporary subsistence management regulations for public lands in Alaska, which included this closure, to minimize disruption to the State's continuing fish and game management because of the uncertainty over the resumption of State management of subsistence yet still fulfilling the requirements of the Title VIII of ANILCA (55 Fed. Reg. 126; 27125, 27155 [June 29, 1990]).

### **Council Recommendation for Original Closure**

None

### **State Recommendation for Original Closure**

None

### **Biological Background**

Russell Creek has been surveyed and found to contain Chum, Coho, Pink, and Sockeye salmon as well as steelhead trout (Johnson and Blossom 2018). Annual indexing of salmon escapement is conducted through aerial surveys and recent data shows variable returns of Chum and Pink salmon (**Table 1**). There was also a count of 600 Coho Salmon observed during the 2014 season (Keyse and Fox 2015) and 100 Sockeye Salmon observed during the 2020 season (Fox et al. 2021).



**Table 1.** Aerial survey estimates of Chum and Pink salmon in Russell Creek 2013-2021 (Poetter and Nichols 2014; Keyse and Fox 2015; Keyse et al. 2016; Fox et al. 2017, 2018, 2019, 2020, 2021, 2022).

| Year | Chum Salmon | Pink Salmon |
|------|-------------|-------------|
| 2013 | 20,000      | 8,000       |
| 2014 | 55,500      | 60,400      |
| 2015 | 18,800      | 29,000      |
| 2016 | 113,000     | 0           |
| 2017 | 125,000     | 140,000     |
| 2018 | 12,500      | 2,500       |
| 2019 | 15,000      | 38,000      |
| 2020 | 13,800      | 11,800      |
| 2021 | 32,400      | 23,500      |

## Community Background

### Introduction

Two communities have consistent access to Russell Creek. One, Cold Bay with a population of 50 residents is home to the Izembek National Wildlife Refuge offices (**Table 2**). Cold Bay is located at the western end of the Alaska Peninsula, 634 miles southwest of Anchorage and 180 miles northeast of Unalaska (**Figure 1**). Cold Bay residents can access Russell Creek by road vehicle or by foot. The small watershed is located directly east of the end of the Cold Bay airport runway. Cold Bay School closed in 2015 due to a lack of student enrollment (ADCRA 2022). The other community with consistent access to Russell Creek is King Cove with a population of 807 residents (**Table 2**). King Cove is located across the bay from the Cold Bay community and travel between the communities is limited to boat or plane. An Alaska State ferry arrives in Cold Bay and King Cove monthly from May through October (City of King Cove 2022).

**Table 2.** The population of Cold Bay and King Cove, 1960–2020 (Source: ADCCED 2022).

| Community | 1960 | 1970 | 1980 | 1990 | 2000 | 2010  | 2020 |
|-----------|------|------|------|------|------|-------|------|
| Cold Bay  | 86   | 256  | 192  | 148  | 88   | 108   | 50   |
| King Cove | 290  | 283  | 460  | 677* | 792  | 938   | 757  |
| Total     | 376  | 539  | 652  | 148  | 880  | 1,046 | 807  |

\*The U.S. Census left out Ram Creek Subdivision in the community total of 451 in 1990 (ADLWFD 1993:82).

### Cold Bay

The town began with the airport’s construction. Aleut people used the site only seasonally because there were more sheltered areas in the region. Fort Randall Army Base was built at Cold Bay during WWII and had the largest airport west of Anchorage. The base was primarily a refueling stop and an advanced base where squadrons of fighters were stationed and infantrymen awaited transport to the fighting. After the Aleutians were retaken, the base was a garrison town. The military had total control

of all land in the area, handing off to other authorities over time, and retarding the growth of permanent residents and sense of community throughout the history of Cold Bay. In 1948 Cold Bay became Thornborough Air Force Base. The Air Force Base was activated during the Korean War and again during the Viet Nam War in the 1960s when there was a massive military presence in town. Statehood in 1959 brought Alaska Department of Transportation workers to Cold Bay. In 1960, the Izembek National Wildlife Refuge was formed and increased the presence by the U.S. Fish and Wildlife Service. This removed a large amount of land from the possibility of private purchase (Pettersen et al. 1983).

### King Cove

King Cove community sits along a small cove on the south side of the Alaska Peninsula between Belkofski Bay on the east and Cold Bay on the west. The cash economy is dependent on commercial fisheries and seafood processors. A cannery operates year-round, and the boat harbor contains a large number of vessels used for purse seining, trawling, crabbing, and driftnetting. Travel between the communities of Cold Bay and King Cove is limited to boat or plane. A high priority for local transportation has long been construction of an access road between King Cove and Cold Bay through the Izembek Wilderness Area to provide a more reliable link to the outside world during emergencies. The City of King Cove is again awaiting a decision on a proposed land transfer that would allow the access road to be extended directly to Cold Bay (Risdaahl 2022, pers. comm.).

Settled in 1911 by cannery operators and commercial fishermen, the older Aleut community in the area was Belkofski. Belkofski remained a viable community even after the first cannery was built in King Cove in 1911. The cannery provided only seasonal employment. However, in the 1970s the cannery began to process crab and bottom fish and remained open year-round, and one-by-one, Belkofski families began to move to King Cove to secure more steady employment. The last Belkofski family moved to King Cove in the 1980s. Belkofski's former residents retained their own Tribal government. In addition to Belkofski, King Cove drew residents from other settlements in the area, including Thin Point, False Pass, Morzhovoi, Ikatán, Unga, and Sanak (Braund et al. 1986).

King Cove Aleut are within the Aleutians East Borough, the "Eastern Aleut," whose boundaries form a distinct cultural zone both historically and today and occupy six communities (Sand Point, King Cove, Nelson Lagoon, False Pass, Akutan, and Cold Bay). The Agdaagux Tribal Council is the King Cove Tribal Council. Most former residents of Belkofski now live in King Cove and are part of the Belkofski Corporation and Tribal Council (Reedy-Maschner 2010).

In the early days of salmon fishing, canneries owned fish traps and dories and hired their own labor or Aleut labor to move the fish from traps to the plants. Over time, the village struggled to become more independent of the cannery's patronage, a process that is still alive. The cannery blocked attempts to incorporate King Cove as a second-class city for fear of the tax burden. The village successfully petitioned again in 1949. The ability to tax allowed leaders to start infrastructure projects. The cannery has threatened to withhold fuel and other amenities if fishermen strike in protest of low fish prices (Reedy-Maschner 2010). Government recognition and citizenship are recent to Aleuts. Full U.S.

citizenship did not come until the passage of the Fur Seal Act by Congress in 1966 (Mercurieff 1997 *in* Reedy-Maschner 2010).

### Salmon for Home Use Removed from Commercial Catches

For the Aleut, commercial fishing is more than a “job” that finances subsistence harvesting. Dr. Katherine Reedy-Maschner collaborated with residents of King Cove to document their involvement in fisheries and wrote a book “Aleut Identities.” She describes the catch of salmon for home use:

Although both men and women fish with rod and reel at Ram’s Creek, which has a Pink Salmon run in July and August, or fish for a multitude of nonsalmon species off the docks, most fish taken for subsistence are from commercial catches, with the captain and crew using commercial gear. This is in part because Sockeye and Chinook (King) salmon are preferred over Pink and Chum salmon in taste and usage, and are usually stored in greater quantities but can be caught only at sea. Fishermen seldom turn prized King Salmon in to the cannery because the price is often too low to make it worth their while. And because they would rather eat them. The fishermen catch salmon while out in their boats and send them back to town with the tenders—the large boats that move fish and supplies from the fishing grounds to the cannery—who leave them in metal containers on the fish dock. The tendermen then call or radio those for whom the fish are intended, and someone picks them up and takes them home or delivers them . . . . The decisions people make regarding the proportion of fish to remove from the commercial catch are based on knowledge of past distribution, assessment of the current needs of the people to whom that individual distributes, his wife’s or mother’s knowledge of who should get fish and how much, and the price of fish offered by the cannery. The lower the price paid, the more fish people bring home . . . . Limited entry restricts the number of boat and permit owners and can greatly affect an individual’s ability to provide subsistence resources to this household or to other households that depend on him. Economic status, age, or other circumstances exclude some households from being able to fish, but extended family or friends often include them in their own activities or share a portion of their catches (Reedy-Maschner 2010:88).

Salmon removed from commercial salmon harvest, “home pack,” is an important source of salmon. This number may be substantial, especially in years when commercial salmon prices are low. (Fall et al. 1993; ADF&G 2022).

Non-permitted, non-crewing fishermen set their subsistence nets close to the village

### Community Harvest and Use

The Alaska Department of Fish and Game issues subsistence permits to subsistence fishermen who then must record the numbers of fish taken on the permits and return them. The permits, however, do

not generally include salmon retained by commercial fishermen, and the number of permits does not indicate every subsistence harvester (Fall et al. 1993; Brown et al. 2021).

In addition to Mortensen’s Lagoon located about 9 miles southeast of Cold Bay with easy road access, Thin Point Lagoon, situated 12 miles west of King Cove, and Leonard Harbor, situated near the King Cove road system, are some of the primary areas used for obtaining subsistence Sockeye and Coho salmon for King Cove and Cold Bay residents (Johnson and Fox 2015). Most nonlocal residents of Alaska fish at Mortensen’s Lagoon primarily because of easy road access from the Cold Bay airport (Tscherich and Russ 2008; Brown et al. 2021).

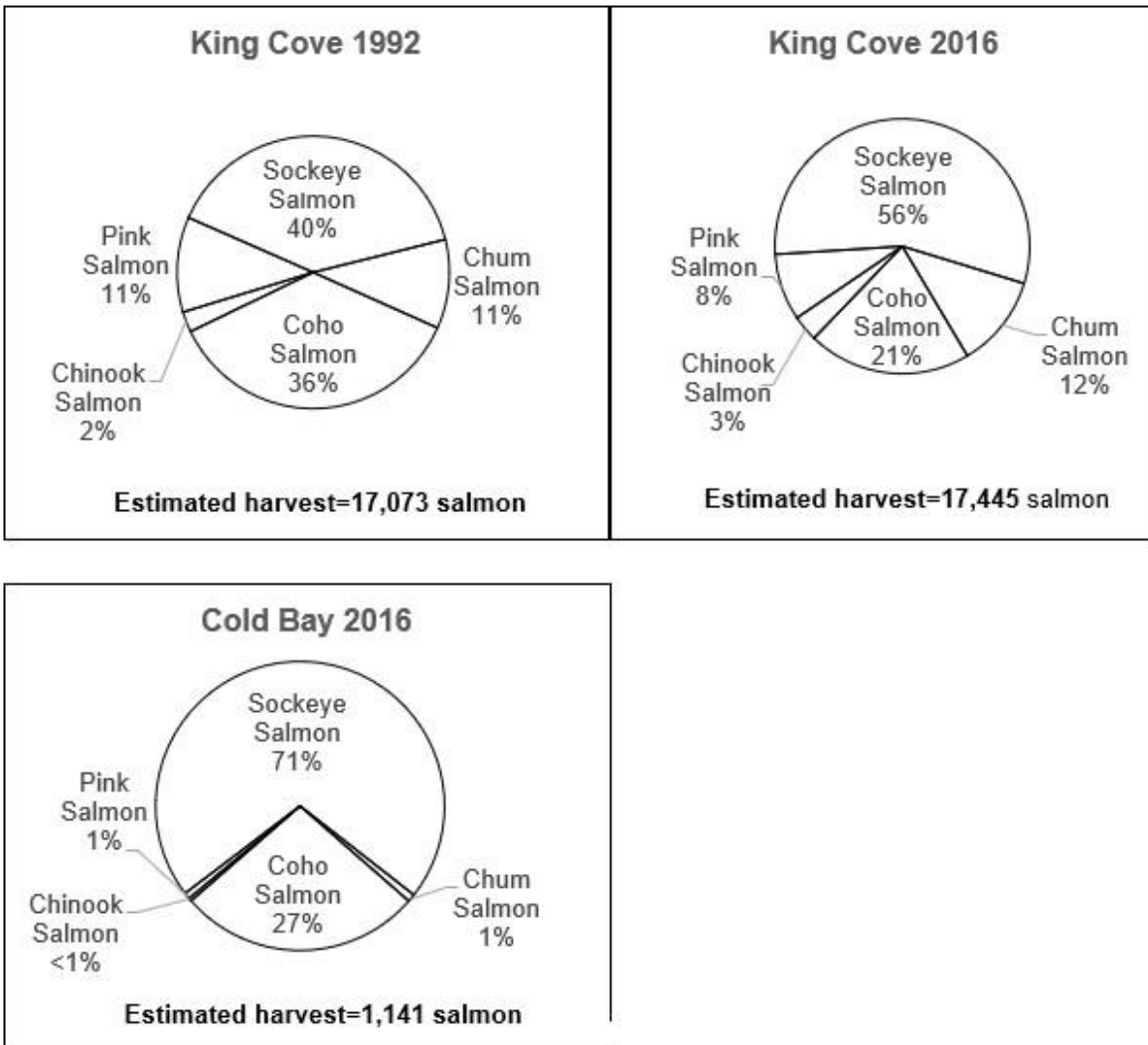
The estimated harvest of salmon by residents of King Cove and Cold Bay, based on household surveys, is described in **Table 3**. King Cove residents harvested over 17,000 salmon in 1992 and 2016, which equated to over 50% of the harvest of all wild resources in pounds edible weight. Cold Bay residents harvested 1,141 salmon in 2016, which equated to 64% of the harvest of all wild resources in pounds edible weight. The majority of harvests was comprised of Sockeye Salmon (**Figure 3**).

In 1992, data from household surveys estimated that 51% of the salmon harvested for home use in King Cove and 27% in 2016 were removed from commercial harvests (Fall et al. 1993; ADF&G 2022).

**Table 3.** The estimated harvest of salmon for subsistence in numbers of fish, the per person harvest of salmon in pounds edible weight, and the percentage of salmon in the total wild resource harvest, based on households surveys in study years 1992 and 2016 (ADF&G 2022).

| Community | Study Year | Estimated harvest<br>(#s of fish) | Lower harvest estimate<br>(#s of fish) | Upper harvest estimate<br>(#s of fish) | Per person harvest<br>(lbs edible weight) | Percentage of total wild resource harvest<br>(lbs edible weight) |
|-----------|------------|-----------------------------------|--|--|---|--|
| King Cove | 1992       | 17,073                            | 10,985                                 | 23,161                                 | 137                                       | 53%  |
| King Cove | 2016       | 17,445                            | 12,245                                 | 23,095                                 | 192                                       | 64%  |
| Cold Bay  | 2016       | 1,141                             | 1,191                                  | 1,994                                  | 148                                       | 64%  |

Although freezing is widely used, residents preserve salmon harvest by salting, smoking, and drying (Pink Salmon). Dried Pink Salmon are call “yukola.” Pickling of salted salmon, canning, and jarring also occurs. Freezer space is not usually sufficient to freeze all salmon harvested. Most freeze a few Chinook (King) and Sockeye Salmon (Fall et al. 1993).



**Figure 2.** The estimated harvest of salmon by species in 1992 and 2016 at King Cove and Cold Bay (Source: ADF&G 2022).

**Harvest History**

Russell Creek is closed to subsistence fishing under both Federal and State regulations; however, it is open to sport fishing. The general Alaska Peninsula/Aleutian Island Remote Zone sport fishing salmon regulations allow 5 salmon (combination of species excluding Chinook Salmon) per day and 10 in possession. There is no specific harvest reported for Russell Creek as harvest is so low, but the harvest for the combined Cold Bay Area in years where 12 or more Statewide Sport Fish Harvest Survey responses were received between 2009 and 2018 range between 1,249 and 5,048 salmon (ADF&G 2020).

Federally qualified subsistence users harvest salmon with rod and reel under State sport fishing regulations at Russell Creek (Reedy 2020, pers. comm.). The adjacent land is owned by the King Cove Corporation, and a person must get a permit from the Corporation to access Russell Creek, or a person can access the creek using Bureau of Land Management access easements (Risdaahl 2020, pers comm.).

For Cold Bay residents, the larger Sockeye Salmon subsistence efforts are at Mortensen's Lagoon (a couple miles southeast of Russell Creek), with rod and reel and beach seines. Many King Cove subsistence harvesters come over to Mortenson's Lagoon as well for the majority of their homepack since fishing options closer to King Cove are limited. They use the ferry or share on a family member's boat to travel between the communities (Reedy 2020, pers. comm.).

### **Effects**

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), "...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over taking on such lands of fish and wildlife for other purposes." There are currently nonsubsistence uses permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon in the Russell Creek drainage, thereby providing priority consumptive use to Federally qualified subsistence users.

If the closure is rescinded, Federal subsistence regulations for the Alaska Peninsula Area would apply which could lead to overharvest and conservation concerns. For salmon this would require a State subsistence permit with reporting due annually by October 31. Salmon taken under the permit could be harvested by gillnet, rod and reel, or gear specified on the permit. Salmon could also be taken under Federal regulation by snagging (hand line or rod and reel), using a spear, bow and arrow, or capture by hand. The salmon harvest limit per household for the Alaska Peninsula Area is 250 fish. To conserve fish populations, the Federal in-season manager could issue a special action to set provisions for the fishery, such as stipulating gear types like rod and reel only and setting conservative harvest limits.

### **OSM PRELIMINARY CONCLUSION**

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

The regulations should read:

*Alaska Peninsula Area*

§\_\_\_\_.27(e)(7)

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(v) *You may not subsistence fish for salmon in the following waters:*

~~(A) *Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon;*~~

## Justification

The Russell Creek drainage is currently closed to the harvest of salmon by Federally qualified subsistence users but remains open to other uses. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries (**Appendix 2**). The in-season manager can use this authority to manage the fishery in the short term. A proposal outlining desired parameters for this fishery may be submitted during the next fisheries cycle so they can be put into regulation.

If this closure is retained, reference to Nurse Lagoon should be removed and the work “drainage” should be added after Russell Creek to clarify that the closure applies to the entire drainage.

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| <b>SELECTED SUBSISTENCE REGULATIONS</b> |
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These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Alaska Peninsula Area.

**5 AAC 01.430. LIMITS TO NUMBER OF SALMON TAKEN:** 250 salmon per household, unless otherwise specified by a local representative of the department. Additional household permits are available by request from the local ADF&G representative.

**5 AAC 01.420. LIMITS TO GEAR USED TO TAKE SALMON:** Salmon may be taken by seine or gillnet. No set gillnet may exceed 100 fathoms in length. No drift gillnet may exceed 200 fathoms in length. In areas open to commercial salmon fishing, salmon can only be taken with gillnets of not more than 50 fathoms in aggregate length.

**5 AAC 01.427. IDENTIFICATION OF GILLNET GEAR:** A buoy at one end of any gillnet must be plainly and legibly marked with the operator's first initial, last name, and mailing address of the permit holder or the vessel's ADF&G number.

**5 AAC 01.410. FISHING SEASONS:** Salmon may be taken at any time except as follows:

1. In those districts and sections open to commercial salmon fishing, salmon may not be taken by a commercial salmon fishing permit holder within 24 hours before and within 12 hours following a commercial salmon fishing period.
2. As otherwise specified on a subsistence fishing permit; and
3. In the waters closed to subsistence fishing for salmon specified in 5 AAC 01.425.

Exceptions to this rule are listed under EXCEPTIONS 1 and 2 below or as listed on an amended permit.

**5 AAC 01.423. SPECIAL PROVISIONS:**

1. Mortensens Lagoon (Mortensens lagoon and waters within 500 yards of the Mortensens Lagoon terminus only). Salmon may be taken at any time, however the following restrictions apply:
  - A. Subsistence gear is restricted to gillnets of 15 fathoms or less in length.
  - B. No more than 50 salmon per permit per season may be taken from Mortensens Lagoon or within 500 yards of the lagoon terminus.
2. False Pass vicinity: That portion of Bechevin Bay and Isanotski Strait bounded by the latitude of Morzhovoi Village (54°54.58' N lat.) and the latitude of Whirl Point (54°49.50' N lat.). Salmon may be taken at any time using gillnets of 30 fathoms or less in length.
3. Fresh waters of Bear River: Salmon may be taken at anytime upstream from the confluence of the Milky River, also known as the Mad Sow River (a tributary of the Bear River) with gear specified on the subsistence permit.
4. Fresh waters of Sandy River: Salmon may be taken at anytime upstream from the Sandy River (oil exploration) aircraft landing strip located five (5) miles (upriver) of the stream terminus, with gear specified on the subsistence permit.

**5 AAC 01.425. WATERS CLOSED TO SUBSISTENCE SALMON FISHING:**

1. Russell Creek and Nurse Lagoon and within 500 yards from the stream terminus of Russell Creek and Nurse Lagoon.
2. Trout Creek and within 500 yards outside its mouth.
3. Inshore of a line from the Trident Seafood's Dock at Sand Point to Black Point (located on the northwestern side of Popof Island), including the inlet and Humboldt Creek.
4. Black Hills Section: all freshwaters and within 500 yards of any anadromous salmon stream terminus.
5. Bear River Section: waters closed to commercial salmon fishing under 5 AAC 09.350 and 5 AAC 39.290 and waters of Frank's Lagoon and King Salmon River, excluding exceptions in Bear and Sandy Rivers listed earlier on this permit.
6. No subsistence fishing is allowed in waters closed to commercial salmon fishing as described under 5 AAC 09.350 or 5 AAC 39.290 during a commercial salmon fishing period. Exceptions to this rule are listed under SPECIAL PROVISIONS 1 and 2 above or as specified on an amended permit.

**ADDITIONAL RESTRICTIONS:**

1. **No more than half the width of a stream or its mouth may be obstructed by a net.** This restriction includes blocking the stream mouth while "roundhauling."
2. The operator must be in proximity of his or her gear at all times.
3. **Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.**
4. Subsistence fishing gear may at no time be used within 100 feet of another set gillnet.
5. Definition of subsistence uses: AS 16.05.940(33) subsistence uses means the noncommercial, customary and traditional uses of wild, renewable resources.

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Return permit by October 31, 2020 to: Alaska Department of Fish and Game, Alaska Peninsula Salmon Management, 351 Research Court, Kodiak AK 99615. Questions or concerns please contact your local Fish and Game Office: Cold Bay (907) 532-2419; Sand Point (907) 383-2066; Port Moller (907) 375-2716; Kodiak (907) 486-1882.

**APPENDIX 2**  
**DELEGATION OF AUTHORITY LETTER TO THE INSEASON MANAGER OF THE**  
**SOUTHWEST ALASKA AREA**

Branch Chief - Fisheries  
U.S. Fish and Wildlife Service  
Anchorage Fish and Wildlife Conservation Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Branch Chief:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Branch Chief - Fisheries of the Anchorage Fish and Wildlife Conservation Office (Branch Chief) to issue emergency special actions when necessary to ensure the conservation of a healthy fish population, to continue subsistence uses of fish, for the continued viability of a fish population, or for public safety reasons. This delegation only applies to Federal public waters subject to the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII in the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas.

It is the intent of the Board that Federal subsistence fisheries management by Federal officials be coordinated, prior to implementation, with Regional Advisory Council (Council) representatives, the Office of Subsistence Management (OSM), and the Alaska Department of Fish and Game (ADF&G), to the extent possible. The OSM will be used by managers to facilitate communication of actions and to ensure proposed actions are technically and administratively aligned with legal mandates and policies. Federal managers are expected to cooperate with managers from the State and other Federal agencies, the Council Chair(s), and applicable Council members to minimize disruption to resource users and existing agency programs, consistent with the need for emergency special action.

**DELEGATION OF AUTHORITY**

- 1. Delegation:** The Branch Chief is hereby delegated authority to issue emergency special actions affecting fisheries in Federal public waters as outlined under the **Scope of Delegation** below. Although a public hearing is not required for emergency special actions, if deemed necessary by you, then a public hearing on the emergency special action is recommended. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.
- 2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: "The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board."
- 3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(a) and 50 CFR 100.19(a). Such an emergency action may not exceed 60 days, and may not be extended.

This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries.

This delegation also permits you to close and re-open Federal public waters to nonsubsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve healthy populations of fish or to ensure the continuation of subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations or requests for special actions greater than 60 days, shall be directed to the Board.

The Federal public waters subject to this delegated authority are those within the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). You will coordinate all local fishery decisions with all affected Federal land managers.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Review of Proposed Special Actions:** You will use the following guidelines to determine the appropriate course of action when reviewing proposed special actions.

- a) Does the proposed special action fall within the geographic and regulatory scope of delegation?
- b) Have you communicated with the OSM to ensure the emergency special action is aligned with Federal subsistence regulations and policy?
- c) Does the proposed action need to be implemented immediately as an emergency special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the next regulatory cycle?
- d) Does the supporting information in the proposed special action substantiate the need for the action?
- e) Are the assertions in the proposed special action confirmed by available current biological information and/or by affected subsistence users?
- f) Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?
- g) Is the proposed special action likely to achieve the expected results?
- h) Have the perspectives of the Chair or alternate of the affected Council(s), OSM, and affected State and Federal managers been fully considered in the review of the proposed special action?
- i) Have the potential impacts of the proposed special action on all affected subsistence users and non-Federally qualified users within the drainage been considered?

- j) Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?
- k) After evaluating all information and weighing the merits of the special action against other actions, including no action, is the proposed emergency special action reasonable, rational, and responsible?

**6. Guidelines for Delegation:** You will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

You will provide subsistence users in the region a local point of contact about Federal subsistence fishery issues and regulations and facilitate a local liaison with State managers and other user groups. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. You will also establish meaningful and timely opportunities for government-to-government consultation related to pre-season and post-season management actions as established in the Board's Government to Government Tribal Consultation Policy (Federal Subsistence Board Government to Government Tribal Consultation Policy 2012).

You will review emergency special action requests or situations that may require an emergency special action and all supporting information to determine (1) consistency with 36 CFR 242.19 and 50 CFR 100.19, (2) if the request/situation falls within the scope of your delegated authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action may be on potentially affected subsistence uses and nonsubsistence uses. Requests not within your delegated authority will be forwarded to the Board for consideration.

You will maintain a record of all special action requests and justification of your decisions. A copy of this record will be provided to the Administrative Records Specialist at OSM no later than sixty days after development of the document.

You will immediately notify the Board through the Assistant Regional Director for the OSM, and coordinate with Chair or alternate of the affected Council(s), local ADF&G managers, and other affected Federal conservation unit managers concerning emergency special actions being considered.

If the timing of a regularly scheduled meeting of the affected Council(s) permits without incurring undue delay, you may seek Council recommendations on the proposed emergency special action.

You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify Council representatives, the public, OSM, affected State and Federal managers, and law enforcement personnel. If an action is to supersede a State action not yet in effect, the decision will be communicated to Council representatives, the public, OSM, and State and Federal managers at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponents of the request immediately.

You may defer an emergency special action request, otherwise covered by the delegation of authority, to the Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. These options should be exercised judiciously and only when sufficient time allows. Such deferrals should not be considered

when immediate management actions are necessary for conservation purposes. The Board may determine that an emergency special action request may best be handled by the Board, subsequently rescinding the delegated authority for the specific action only.

**7. Reporting:** You must provide to the Board, through the Assistant Regional Director for the OSM, a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15. A summary of emergency special action requests and your resultant actions must be provided to the coordinator of the appropriate Council(s) at the end of the calendar year for presentation during regularly scheduled Council meetings.

**8. Support Services:** Administrative support for your local Federal subsistence fisheries management activities will be provided by the Office of Subsistence Management.

Should you have any questions about this delegation of authority, please feel free to contact the Assistant Regional Director for the OSM at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,



Anthony Christianson  
Chair

Enclosures: Maps of the Bristol Bay, Aleutian Islands, and Alaska Peninsula/Chignik areas

cc: Federal Subsistence Board

Assistant Regional Director, Office of Subsistence Management

Deputy Assistant Regional Director, Office of Subsistence Management

Subsistence Policy Coordinator, Office of Subsistence Management

Fisheries Division Supervisor, Office of Subsistence Management

Chair, Bristol Bay Subsistence Regional Advisory Council

Chair, Kodiak/Aleutians Subsistence Regional Advisory Council

Superintendent, Lake Clark/Katmai National Parks and Preserve

Manager, Togiak National Wildlife Refuge

Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex

Manager, Izembek National Wildlife Refuge

Manager, Alaska Maritime National Wildlife Refuge

Assistant Regional Director, Law Enforcement, U.S. Fish and Wildlife Service (Region 7)

Commissioner, Alaska Department of Fish and Game

Interagency Staff Committee

Administrative Record

| <b>F CR23-13 Executive Summary</b>   |  |
|--|--|
| <b>General Description</b>   | F CR23-13 is a routine review of a Federal closure to salmon fishing in Trout Creek and within 500 yards outside its mouth in the Alaska Peninsula Area.   |
| <b>Current Regulation</b>  | <p>§ __.27(e)(7) <i>Alaska Peninsula Area</i></p> <p style="text-align: center;">***</p> <p>(v) <i>You may not subsistence fish for salmon in the following waters:</i></p> <p style="text-align: center;">***</p> <p>(B) <i>Trout Creek and within 500 yards outside its mouth.</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Bristol Bay Subsistence Regional Advisory Council Recommendation</b>      |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |



**FEDERAL FISHERIES DRAFT CLOSURE REVIEW  
FCR23-13**

**Issue**

FCR23-13 is a routine review of a Federal closure to salmon fishing in Trout Creek and within 500 yards outside its mouth in the Alaska Peninsula Area. 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:** Trout Creek—Salmon

**Current Federal Regulation**

§\_\_\_\_.27(e)(7) *Alaska Peninsula Area*

\*\*\*

(v) *You may not subsistence fish for salmon in the following waters:*

\*\*\*

(B) *Trout Creek and within 500 yards outside its mouth.*

**Relevant Federal Regulations**

§\_\_\_\_.25 *Subsistence taking of fish, wildlife, and shellfish: general regulations.*

(a) *Definitions. The following definitions apply to all regulations contained in this part:*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

§\_\_\_\_.27 *Subsistence taking of fish*

\*\*\*

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

\*\*\*

(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.*

\*\*\*

*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

§\_\_\_\_.27(e)(7) Alaska Peninsula Area

\*\*\*

*(ii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit.*

*(iii) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.*

*(iv) You may take salmon at any time, except in those districts and sections open to commercial salmon fishing where salmon may not be taken during the 24 hours before and 12 hours following each State open weekly commercial salmon fishing period, or as may be specified on a subsistence fishing permit.*

\*\*\*

*(vi) You may take salmon by seine, gillnet, rod and reel, or with gear specified on a subsistence fishing permit. You may also take salmon without a permit by snagging (by handline or rod and reel), using a spear, bow and arrow, or capturing by bare hand.*

*(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.*

*(viii) You may not use a set gillnet exceeding 100 fathoms in length.*

*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on your subsistence fishing permit.*

Note: In the Alaska Peninsula Area, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (**Appendix 1**, see 5 AAC 01.420. Subsistence fishing permits)

**Closure Dates:** Year-round

**Current State Regulation**

Subsistence Regulations

**Alaska Peninsula Area**

*5 AAC 01.425 Waters closed to subsistence fishing*

*The following waters are closed to subsistence fishing for salmon:*

\*\*\*

*(2) Trout Creek and within 500 yards outside its mouth;*

\*\*\*

**Relevant State Regulations**

Subsistence Regulations

**Alaska Peninsula Area**

*5 AAC 01.420. Lawful gear and gear specifications*

*(a) Salmon may be taken only by seine and gillnet, or with gear specified on a subsistence fishing permit.*

*5 AAC 01.430. Subsistence fishing permits*

*(a) Salmon, trout, and char may only be taken under the authority of a subsistence fishing permit. The department will only issue one permit per household.*

*(b) No more than 250 salmon may be taken for subsistence purposes, per household, unless otherwise specified by a local representative of the department on the subsistence fishing permit. A permit holder may obtain an additional permit from the department.*

*(c) A record of subsistence-caught fish must be kept on the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.*

Sport Regulations

**Alaska Peninsula and Aleutian Islands Area**

*5 AAC 65.020. General provisions for seasons and bag, possession, annual, and size limits for the Alaska Peninsula and Aleutian Islands Area*

*Except as otherwise provided in 5 AAC 65.022, 5 AAC 65.051, or by an emergency order issued under AS 16.05.060, the seasons and bag, possession, annual, and size limits for finfish and shellfish in the Alaska Peninsula and Aleutian Islands Area are as follows:*

*(1) king salmon:*

*(A) in fresh waters: may be taken only from January 1 through July 25, except that king salmon may be taken in the Chignik River only from January 1 through August 9, and as follows:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five fish; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; no annual limit;*

*\*\*\**

*(2) salmon, other than king salmon: may be taken from January 1 through December 31, as follows:*

*(A) 20 inches or greater in length; bag limit of five fish and a possession limit of 10 fish;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish;*

**Regulatory Year Initiated:** 1992

#### **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 comprise the Trout Creek watershed which is within and adjacent to the exterior boundaries of Izembek and Alaska Peninsula National Wildlife Refuges (**Figure 1**). The marine waters of Cold Bay were at one time considered Federal public waters. The Secretaries of the Interior and Agriculture later determined that some marine waters, including Cold Bay, were added to Federal subsistence regulation erroneously and should be removed (70 Fed. Reg. 247. 76407 [December 27, 2005]).



**Figure 1.** Map showing Trout Creek and Russel Creek salmon closures and areas used by residents of Cold Bay and King Cove to harvest salmon for subsistence: Mortensens Lagoon, Thin Point, and Leonard Harbor.

### **Customary and Traditional Use Determination**

Residents of the Alaska Peninsula Area have a customary and traditional use determination for salmon in the Alaska Peninsula Area.

### **Regulatory History**

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations that previously applied to those waters. The closure under review in this analysis was incorporated into the Federal regulations in this manner and has not been subsequently modified.

### **Closure last reviewed**

There have been no previous reviews of this closure.

### **Justification for Original Closure**

In 1990, the Federal Subsistence Management Program adopted temporary subsistence management regulations for public lands in Alaska, which included this closure, to minimize disruption to the State's continuing fish and game management, because of the uncertainty over the resumption of State management of subsistence, yet still fulfill the requirements of the Title VIII of ANILCA (55 Fed. Reg. 126; 27125, 27155 [June 29, 1990]).

### **Council Recommendation for Original Closure**

None

### **State Recommendation for Original Closure**

None

### **Biological Background**

Anadromous species present in the Trout Creek drainage are Chum, Coho, Pink and Sockeye salmon (Johnson and Blossom 2021). None of the fish populations are regularly monitored so there is little abundance information available. Aerial surveys of Trout Creek have been conducted opportunistically since 1979. The maximum number of salmon observed during these surveys was 1,000 sockeye, 1,736 coho, 2,300 pink, and 1,200 chum (Burch 2022, pers. comm.). A fish passage assessment conducted in 2015 identified two culverts in the lower Trout Creek drainage that are assumed unsuitable for fish passage (Eisenman and O'Doherty 2018). However, anadromous species were documented at several locations upstream of those culverts in 2005 (Johnson and Blossom 2021).

## Community Background

### Introduction

Two communities have consistent access to Trout Creek. One, Cold Bay with a population of 50 residents is home to the Izembek National Wildlife Refuge offices (**Table 2**). Cold Bay is located at the western end of the Alaska Peninsula, 634 miles southwest of Anchorage and 180 miles northeast of Unalaska (**Figure 1**). Cold Bay residents can access Trout Creek by road vehicle or by foot. The small watershed is located directly east of the end of the Cold Bay airport runway. Cold Bay School closed in 2015 due to a lack of student enrollment (ADCRA 2022). The other community with consistent access to Trout Creek is King Cove with a population of 807 residents (**Table 2**). King Cove is located across the bay from the Cold Bay community and travel between the communities is limited to boat or plane. An Alaska State ferry arrives in Cold Bay and King Cove monthly from May through October (City of King Cove 2022).

**Table 2.** The population of Cold Bay and King Cove, 1960–2020 (Source: ADCCED 2022).

| Community | 1960 | 1970 | 1980 | 1990 | 2000 | 2010  | 2020 |
|-----------|------|------|------|------|------|-------|------|
| Cold Bay  | 86   | 256  | 192  | 148  | 88   | 108   | 50   |
| King Cove | 290  | 283  | 460  | 677* | 792  | 938   | 757  |
| Total     | 376  | 539  | 652  | 148  | 880  | 1,046 | 807  |

\*The U.S. Census left out Ram Creek Subdivision in the community total of 451 in 1990 (ADLWFD 1993:82).

### Cold Bay

The town began with the airport's construction. Aleut people used the site seasonally because there were more sheltered areas in the region. Fort Randall Army Base built at Cold Bay during WWII had the largest airport west of Anchorage. The base was primarily a refueling stop and an advanced base where squadrons of fighters were stationed and infantrymen awaited transport to the fighting. After the Aleutians were retaken the base was a garrison town. The military had total control of all land in the area, handing off to other authorities over time, and retarding the growth of permanent residents and senses of community throughout the history of Cold Bay. In 1948 Cold Bay became Thornborough Air Force Base. The Air Force Base was activated during the Korean War and again during the Viet Nam War in the 1960s when there was a massive military presence in town. Statehood in 1959 brought Alaska Department of Transportation workers to Cold Bay. In 1960, the Izembek National Wildlife Refuge was formed and increased the presence by the U.S. Fish and Wildlife Service. This removed a large amount of land from the possibility of private purchase (Petterson et al. 1983).

### King Cove

King Cove community sits along a small cove on the south side of the Alaska Peninsula between Belkofski Bay on the east and Cold Bay on the west. The cash economy is dependent on commercial fisheries and seafood processors. A cannery operates year-round, and the boat harbor contains a large

number of vessels used for purse seining, trawling, crabbing, and driftnetting. Travel between the communities of Cold Bay and King Cove is limited to boat or plane. A high priority for local transportation has long been construction of an access road between King Cove and Cold Bay through the Izembek Wilderness Area to provide a more reliable link to the outside world during emergencies. The City of King Cove is again awaiting a decision on a proposed land transfer that would allow the access road to be extended directly to Cold Bay (Risdaal 2022, pers. comm.).

Settled in 1911 by cannery operators and commercial fishermen, the older Aleut community in the area was Belkofski. Belkofski remained a viable community even after the first cannery was built in King Cove in 1911. The cannery provided only seasonal employment. However, in the 1970s the cannery began to process crab and bottom fish and remained open year-round, and one-by-one, Belkofski families began to move to King Cove to secure more steady employment. The last Belkofski family moved to King Cove in the 1980s. Belkofski's former residents retained their own Tribal government. In addition to Belkofski, King Cove drew residents from other settlements in the area, including Thin Point, False Pass, Morzhovoi, Ikatan, Unga, and Sanak (Braun et al. 1986).

King Cove Aleut are within the Aleutians East Borough, the "Eastern Aleut," whose boundaries form a distinct cultural zone both historically and today and occupy six communities (Sand Point, King Cove, Nelson Lagoon, False Pass, Akutan, and Cold Bay). The Agdaagux Tribal Council is the King Cove Tribal Council. Most former residents of Belkofski now live in King Cove and are part of the Belkofski Corporation and Tribal Council (Reedy-Maschner 2010).

In the early days of salmon fishing, canneries owned fish traps and dories and hired their own labor or Aleut labor to move the fish from traps to the plants. Over time, the village struggled to become more independent of the cannery's patronage, a process that is still alive. The cannery blocked attempts to incorporate King Cove as a second-class city for fear of the tax burden. The village successfully petitioned again in 1949. The ability to tax allowed leaders to start infrastructure projects. The cannery has threatened to withhold fuel and other amenities if fishermen strike in protest of low fish prices (Reedy-Maschner 2010). Government recognition and citizenship are recent to Aleuts. Full U.S. citizenship did not come until the passage of the Fur Seal Act by Congress in 1966 (Mercurieff 1997 in Reedy-Maschner 2010).

#### Salmon for Home Use Removed from Commercial Catches

For the Aleut, commercial fishing is more than a "job" that finances subsistence harvesting. Dr. Katherine Reedy-Maschner collaborated with residents of King Cove to document their involvement in fisheries and wrote a book "Aleut Identities." She describes the catch of salmon for home use:

Although both men and women fish with rod and reel at Ram's Creek, which has a Pink Salmon run in July and August, or fish for a multitude of nonsalmon species off the docks, most fish taken for subsistence are from commercial catches, with the captain and crew using commercial gear. This is in part because Sockeye and Chinook (King) salmon are preferred over Pink and Chum salmon in taste and usage, and are usually stored in greater quantities but can be caught only at sea. Fishermen seldom



turn prized King Salmon in to the cannery because the price is often too low to make it worth their while. And because they would rather eat them. The fishermen catch salmon while out in their boats and send them back to town with the tenders—the large boats that move fish and supplies from the fishing grounds to the cannery—who leave them in metal containers on the fish dock. The tendermen then call or radio those for whom the fish are intended, and someone picks them up and takes them home or delivers them . . . . The decisions people make regarding the proportion of fish to remove from the commercial catch are based on knowledge of past distribution, assessment of the current needs of the people to whom that individual distributes, his wife’s or mother’s knowledge of who should get fish and how much, and the price of fish offered by the cannery. The lower the price paid, the more fish people bring home . . . . Limited entry restricts the number of boat and permit owners and can greatly affect an individual’s ability to provide subsistence resources to this household or to other households that depend on him. Economic status, age, or other circumstances exclude some households from being able to fish, but extended family or friends often include them in their own activities or share a portion of their catches (Reedy-Maschner 2010:88).

Salmon removed from commercial salmon harvest, “home pack,” is an important source of salmon. This number may be substantial, especially in years when commercial salmon prices are low. (Fall et al. 1993; ADF&G 2022).

Non-permitted, non-crewing fishermen set their subsistence nets close to the village

#### Community Harvest and Use

The Alaska Department of Fish and Game issues subsistence permits to subsistence fishermen who then must record the numbers of fish taken on the permits and return them. The permits, however, do not generally include salmon retained by commercial fishermen, and the number of permits does not indicate every subsistence harvester (Fall et al. 1993; Brown et al. 2021).

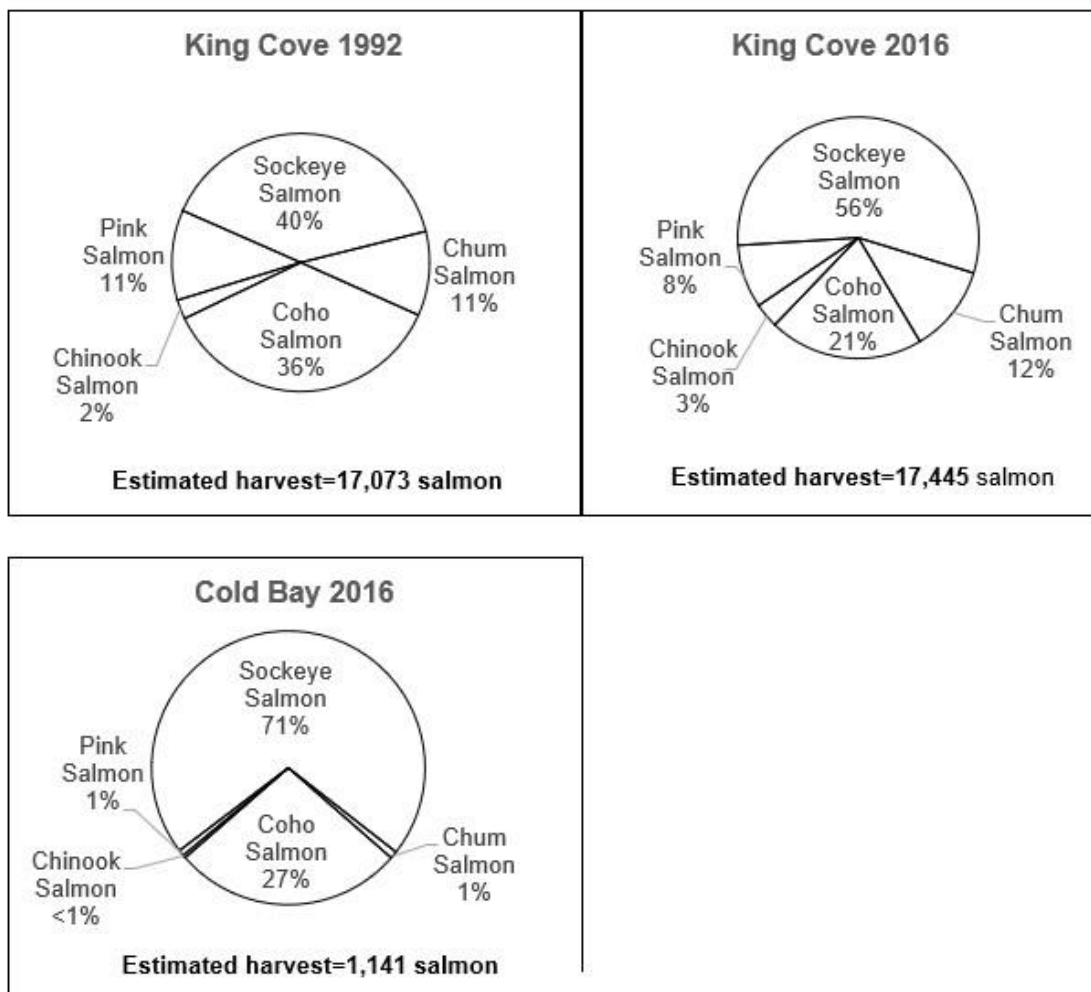
In addition to Mortensen’s Lagoon located about 9 miles southeast of Cold Bay with easy road access, Thin Point Lagoon, situated 12 miles west of King Cove, and Leonard Harbor, situated near the King Cove road system, are some of the primary areas used for obtaining subsistence Sockeye and Coho salmon for King Cove and Cold Bay residents (Johnson and Fox 2015). Most nonlocal residents of Alaska fish at Mortensen’s Lagoon primarily because of easy road access from the Cold Bay airport (Tscherich and Russ 2008; Brown et al. 2021).

The estimated harvest of salmon by residents of King Cove and Cold Bay, based on household surveys, is described in **Table 3**. King Cove residents harvested over 17,000 salmon in 1992 and 2016, which equated to over 50% of the harvest of all wild resources in pounds edible weight. Cold Bay residents harvested 1,141 salmon in 2016, which equated to 64% of the harvest of all wild resources in pounds edible weight. The majority of harvests was comprised of Sockeye Salmon (**Figure 2**).

In 1992, data from household surveys estimated that 51% of the salmon harvested for home use in King Cove and 27% in 2016 were removed from commercial harvests (Fall et al. 1993; ADF&G 2022).

**Table 3.** The estimated harvest of salmon for subsistence in numbers of fish, the per person harvest of salmon in pounds edible weight, and the percentage of salmon in the total wild resource harvest, based on households surveys in study years 1992 and 2016 (ADF&G 2022).

| Community | Study Year | Estimated harvest (#s of fish) | Lower harvest estimate (#s of fish) | Upper harvest estimate (#s of fish) | Per person harvest (lbs edible weight) | Percentage of total wild resource harvest (lbs edible weight) |
|-----------|------------|--------------------------------|-------------------------------------|-------------------------------------|--|---|
| King Cove | 1992       | 17,073                         | 10,985                              | 23,161                              | 137                                    | 53%   |
| King Cove | 2016       | 17,445                         | 12,245                              | 23,095                              | 192                                    | 64%   |
| Cold Bay  | 2016       | 1,141                          | 1,191                               | 1,994                               | 148                                    | 64%   |



**Figure 2.** The estimated harvest of salmon by species in 1992 and 2016 at King Cove and Cold Bay (Source: ADF&G 2022).

Although freezing is widely used, residents preserve salmon harvest by salting, smoking, and drying (Pink Salmon). Dried Pink Salmon are call “yukola.” Pickling of salted salmon, canning, and jarring also occurs. Freezer space is not usually sufficient to freeze all salmon harvested. Most freeze a few Chinook (King) and Sockeye Salmon (Fall et al. 1993).

### **Harvest History**

No subsistence harvest has occurred in the Trout Creek drainage including within 500 yards of its mouth as this area is closed to State and Federal subsistence harvest. Trout Creek is open to harvest under State sport regulations, but harvest is combined and reported with all Area R (Alaska Peninsula) harvest and therefore exact numbers are unavailable (Alaska Sport Fishing Survey Database 2022).

### **Effects**

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), “...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over taking on such lands of fish and wildlife for other purposes.” There are currently nonsubsistence uses permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon in the Trout Creek drainage, thereby providing priority consumptive use to Federally qualified subsistence users.

If the closure is rescinded, Federal subsistence regulations for the Alaska Peninsula Area would apply which could lead to overharvest and conservation concerns. To conserve fish populations, the Federal in-season manager could issue a special action to set provisions for the fishery, such as stipulating gear types such as rod and reel only and setting conservative harvest limits.

### **OSM PRELIMINARY 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)(7) *Alaska Peninsula Area*

\*\*\*

(v) *You may not subsistence fish for salmon in the following waters:*

~~(B) *Trout Creek and within 500 yards outside its mouth.*~~

## Justification

The Trout Creek drainage is currently closed to the harvest of salmon by Federally qualified subsistence users but remains open to other uses. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries (**Appendix 2**). The in-season manager can use this authority to manage the fishery in the short term. A proposal outlining desired parameters for this fishery may be submitted during the next fisheries cycle so they can be put into regulation.

If this closure is retained, regulatory language referring to marine waters should be removed, and the word “drainage” should be included after Trout Creek to clarify that this closure applies to the entire Trout Creek drainage.

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**SELECTED SUBSISTENCE REGULATIONS**

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Alaska Peninsula Area.

**5 AAC 01.430. LIMITS TO NUMBER OF SALMON TAKEN:** 250 salmon per household, unless otherwise specified by a local representative of the department. Additional household permits are available by request from the local ADF&G representative.

**5 AAC 01.420. LIMITS TO GEAR USED TO TAKE SALMON:** Salmon may be taken by seine or gillnet. No set gillnet may exceed 100 fathoms in length. No drift gillnet may exceed 200 fathoms in length. In areas open to commercial salmon fishing, salmon can only be taken with gillnets of not more than 50 fathoms in aggregate length.

**5 AAC 01.427. IDENTIFICATION OF GILLNET GEAR:** A buoy at one end of any gillnet must be plainly and legibly marked with the operator's first initial, last name, and mailing address of the permit holder or the vessel's ADF&G number.

**5 AAC 01.410. FISHING SEASONS:** Salmon may be taken at any time except as follows:

1. In those districts and sections open to commercial salmon fishing, salmon may not be taken by a commercial salmon fishing permit holder within 24 hours before and within 12 hours following a commercial salmon fishing period.
2. As otherwise specified on a subsistence fishing permit; and
3. In the waters closed to subsistence fishing for salmon specified in 5 AAC 01.425.

Exceptions to this rule are listed under EXCEPTIONS 1 and 2 below or as listed on an amended permit.

**5 AAC 01.423. SPECIAL PROVISIONS:**

1. Mortensens Lagoon (Mortensens Lagoon and waters within 500 yards of the Mortensens Lagoon terminus only). Salmon may be taken at any time, however the following restrictions apply:
  - A. Subsistence gear is restricted to gillnets of 15 fathoms or less in length.
  - B. No more than 50 salmon per permit per season may be taken from Mortensens Lagoon or within 500 yards of the lagoon terminus.
2. False Pass vicinity: That portion of Bechevin Bay and Isanotski Strait bounded by the latitude of Morzhovoi Village (54°54.58' N lat.) and the latitude of Whirl Point (54°49.50' N lat.). Salmon may be taken at any time using gillnets of 30 fathoms or less in length.
3. Fresh waters of Bear River: Salmon may be taken at anytime upstream from the confluence of the Milky River, also known as the Mad Sow River (a tributary of the Bear River) with gear specified on the subsistence permit.
4. Fresh waters of Sandy River: Salmon may be taken at anytime upstream from the Sandy River (oil exploration) aircraft landing strip located five (5) miles (upriver) of the stream terminus, with gear specified on the subsistence permit.

**5 AAC 01.425. WATERS CLOSED TO SUBSISTENCE SALMON FISHING:**

1. Russell Creek and Nurse Lagoon and within 500 yards from the stream terminus of Russell Creek and Nurse Lagoon.
2. Trout Creek and within 500 yards outside its mouth.
3. Inshore of a line from the Trident Seafood's Dock at Sand Point to Black Point (located on the northwestern side of Popof Island), including the inlet and Humboldt Creek.
4. Black Hills Section: all freshwaters and within 500 yards of any anadromous salmon stream terminus.
5. Bear River Section: waters closed to commercial salmon fishing under 5 AAC 09.350 and 5 AAC 39.290 and waters of Frank's Lagoon and King Salmon River, excluding exceptions in Bear and Sandy Rivers listed earlier on this permit.
6. No subsistence fishing is allowed in waters closed to commercial salmon fishing as described under 5 AAC 09.350 or 5 AAC 39.290 during a commercial salmon fishing period. Exceptions to this rule are listed under SPECIAL PROVISIONS 1 and 2 above or as specified on an amended permit.

**ADDITIONAL RESTRICTIONS:**

1. **No more than half the width of a stream or its mouth may be obstructed by a net.** This restriction includes blocking the stream mouth while "roundhauling."
2. The operator must be in proximity of his or her gear at all times.
3. **Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.**
4. Subsistence fishing gear may at no time be used within 100 feet of another set gillnet.
5. Definition of subsistence uses: AS 16.05.940(33) subsistence uses means the noncommercial, customary and traditional uses of wild, renewable resources.

Return permit by October 31, 2020 to: Alaska Department of Fish and Game, Alaska Peninsula Salmon Management, 351 Research Court, Kodiak AK 99615. Questions or concerns please contact your local Fish and Game Office: Cold Bay (907) 532-2419; Sand Point (907) 383-2066; Port Moller (907) 375-2716; Kodiak (907) 486-1882.

## APPENDIX 2

### DELEGATION OF AUTHORITY LETTER TO THE INSEASON MANAGER OF THE SOUTHWEST ALASKA AREA

Branch Chief - Fisheries  
U.S. Fish and Wildlife Service  
Anchorage Fish and Wildlife Conservation Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Branch Chief:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Branch Chief - Fisheries of the Anchorage Fish and Wildlife Conservation Office (Branch Chief) to issue emergency special actions when necessary to ensure the conservation of a healthy fish population, to continue subsistence uses of fish, for the continued viability of a fish population, or for public safety reasons. This delegation only applies to Federal public waters subject to the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII in the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas.

It is the intent of the Board that Federal subsistence fisheries management by Federal officials be coordinated, prior to implementation, with Regional Advisory Council (Council) representatives, the Office of Subsistence Management (OSM), and the Alaska Department of Fish and Game (ADF&G), to the extent possible. The OSM will be used by managers to facilitate communication of actions and to ensure proposed actions are technically and administratively aligned with legal mandates and policies. Federal managers are expected to cooperate with managers from the State and other Federal agencies, the Council Chair(s), and applicable Council members to minimize disruption to resource users and existing agency programs, consistent with the need for emergency special action.

#### DELEGATION OF AUTHORITY

- 1. Delegation:** The Branch Chief is hereby delegated authority to issue emergency special actions affecting fisheries in Federal public waters as outlined under the **Scope of Delegation** below. Although a public hearing is not required for emergency special actions, if deemed necessary by you, then a public hearing on the emergency special action is recommended. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.
- 2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: "The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board."
- 3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(a) and 50 CFR 100.19(a). Such an emergency action may not exceed 60 days, and may not be extended.



This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries.

This delegation also permits you to close and re-open Federal public waters to nonsubsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve healthy populations of fish or to ensure the continuation of subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations or requests for special actions greater than 60 days, shall be directed to the Board.

The Federal public waters subject to this delegated authority are those within the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). You will coordinate all local fishery decisions with all affected Federal land managers.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Review of Proposed Special Actions:** You will use the following guidelines to determine the appropriate course of action when reviewing proposed special actions.

- a) Does the proposed special action fall within the geographic and regulatory scope of delegation?
- b) Have you communicated with the OSM to ensure the emergency special action is aligned with Federal subsistence regulations and policy?
- c) Does the proposed action need to be implemented immediately as an emergency special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the next regulatory cycle?
- d) Does the supporting information in the proposed special action substantiate the need for the action?
- e) Are the assertions in the proposed special action confirmed by available current biological information and/or by affected subsistence users?
- f) Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?
- g) Is the proposed special action likely to achieve the expected results?
- h) Have the perspectives of the Chair or alternate of the affected Council(s), OSM, and affected State and Federal managers been fully considered in the review of the proposed special action?
- i) Have the potential impacts of the proposed special action on all affected subsistence users and non-Federally qualified users within the drainage been considered?

j) Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?

k) After evaluating all information and weighing the merits of the special action against other actions, including no action, is the proposed emergency special action reasonable, rational, and responsible?

**6. Guidelines for Delegation:** You will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

You will provide subsistence users in the region a local point of contact about Federal subsistence fishery issues and regulations and facilitate a local liaison with State managers and other user groups. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. You will also establish meaningful and timely opportunities for government-to-government consultation related to pre-season and post-season management actions as established in the Board's Government to Government Tribal Consultation Policy (Federal Subsistence Board Government to Government Tribal Consultation Policy 2012).

You will review emergency special action requests or situations that may require an emergency special action and all supporting information to determine (1) consistency with 36 CFR 242.19 and 50 CFR 100.19, (2) if the request/situation falls within the scope of your delegated authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action may be on potentially affected subsistence uses and nonsubsistence uses. Requests not within your delegated authority will be forwarded to the Board for consideration.

You will maintain a record of all special action requests and justification of your decisions. A copy of this record will be provided to the Administrative Records Specialist at OSM no later than sixty days after development of the document.

You will immediately notify the Board through the Assistant Regional Director for the OSM, and coordinate with Chair or alternate of the affected Council(s), local ADF&G managers, and other affected Federal conservation unit managers concerning emergency special actions being considered.

If the timing of a regularly scheduled meeting of the affected Council(s) permits without incurring undue delay, you may seek Council recommendations on the proposed emergency special action.

You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify Council representatives, the public, OSM, affected State and Federal managers, and law enforcement personnel. If an action is to supersede a State action not yet in effect, the decision will be communicated to Council representatives, the public, OSM, and State and Federal managers at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponents of the request immediately.

You may defer an emergency special action request, otherwise covered by the delegation of authority, to the Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. These options should be exercised judiciously and only when sufficient time allows. Such deferrals should not be considered

when immediate management actions are necessary for conservation purposes. The Board may determine that an emergency special action request may best be handled by the Board, subsequently rescinding the delegated authority for the specific action only.

**7. Reporting:** You must provide to the Board, through the Assistant Regional Director for the OSM, a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15. A summary of emergency special action requests and your resultant actions must be provided to the coordinator of the appropriate Council(s) at the end of the calendar year for presentation during regularly scheduled Council meetings.

**8. Support Services:** Administrative support for your local Federal subsistence fisheries management activities will be provided by the Office of Subsistence Management.

Should you have any questions about this delegation of authority, please feel free to contact the Assistant Regional Director for the OSM at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,



Anthony Christianson  
Chair

Enclosures: Maps of the Bristol Bay, Aleutian Islands, and Alaska Peninsula/Chignik areas

cc: Federal Subsistence Board

Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Policy Coordinator, Office of Subsistence Management  
Fisheries Division Supervisor, Office of Subsistence Management  
Chair, Bristol Bay Subsistence Regional Advisory Council  
Chair, Kodiak/Aleutians Subsistence Regional Advisory Council  
Superintendent, Lake Clark/Katmai National Parks and Preserve  
Manager, Togiak National Wildlife Refuge  
Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex  
Manager, Izembek National Wildlife Refuge  
Manager, Alaska Maritime National Wildlife Refuge  
Assistant Regional Director, Law Enforcement, U.S. Fish and Wildlife Service (Region 7)  
Commissioner, Alaska Department of Fish and Game  
Interagency Staff Committee  
Administrative Record

| <b>FCR23-11 Executive Summary</b>  |   |
|--|---|
| <b>General Description</b>   | FCR23-11 is a routine review of a Federal closure to salmon fishing in all freshwater streams flowing into Unalaska Bay.  |
| <b>Current Regulation</b>  | <p>§ __.27(e)(6) <i>Aleutian Islands Area</i></p> <p style="text-align: center;">***</p> <p><i>(iv) You may not subsistence fish for salmon in the following waters:</i></p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(C) All streams supporting anadromous fish runs that flow into Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point;</i></p> <p style="text-align: center;">***</p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>  |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |   |
| <b>Interagency Staff Committee Comments</b>                                  |   |
| <b>ADF&amp;G Comments</b>  |   |
| <b>Written Public Comments</b>   | <b>None</b>   |

**FEDERAL FISHERIES DRAFT CLOSURE REVIEW  
FCR23-11**

**Issue**

FCR23-11 is a routine review of a Federal closure to salmon fishing in all freshwater streams flowing into Unalaska Bay. 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:** Unalaska Bay freshwater streams—Salmon

**Current Federal Regulation**

§ \_\_\_\_.27(e)(6) *Aleutian Islands Area*

\*\*\*

(iv) *You may not subsistence fish for salmon in the following waters:*

\*\*\*

*(C) All streams supporting anadromous fish runs that flow into Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point;*

\*\*\*

**Relevant Federal Regulations**

§ \_\_\_\_.25 *Subsistence taking of fish, wildlife, and shellfish: general regulations.*

(a) *Definitions. The following definitions apply to all regulations contained in this part:*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

§ \_\_\_\_.27 *Subsistence taking of fish*

\*\*\*

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

\*\*\*

*(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.*

\*\*\*

*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

§ \_\_\_\_.27(e)(6) Aleutian Islands Area

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*(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.*

\*\*\*

*(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.*

*(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used. (viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.*

*(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.*

*(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.*

Note: In the Unalaska District, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (**Appendix 1**, see 5 AAC 01.380. Subsistence fishing permits).

**Closure Dates:** Year-round

## **Current State Regulation**

### Subsistence Regulations

#### **Aleutian Islands Area**

##### *5 AAC 01.375 Waters closed to subsistence fishing*

*The following waters are closed to subsistence fishing for salmon:*

*(1) waters of Unalaska Lake (at the city of Unalaska), its tributaries and outlet stream, and waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53\_ 52.64' N. lat., 166\_ 32.30' W. long. to a point on Amaknak Island at 53\_ 52.82' N. lat., 166\_ 32.13' W. long., and north of line from a point south of Agnes Beach at 53\_ 52.28' N. lat., 166\_ 32.68' W. long. to a point at 53\_ 52.35' N. lat., 166\_ 32.95' W. long. on Amaknak Island;*

*(2) within Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point: waters are closed to subsistence salmon fishing within 250 yards of any anadromous stream, except the outlet stream of Unalaska Lake, which is closed under (1) of this section;*

## **Relevant State Regulations**

### Subsistence Regulations

#### **Aleutian Islands Area**

##### *5 AAC 01.370. Lawful gear and gear specifications*

*(a) Salmon may be taken by seine and gillnet, or with gear specified on a subsistence fishing permit.*

\*\*\*

*(d) In the Unalaska District, a subsistence permit holder fishing with a net must be physically present at the net at all times when the net is being used for fishing.*

5 AAC 01.380. Subsistence fishing permits

(a) *Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

(b) *No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts,*

*(1) the holder of a subsistence salmon fishing permit may take no more than 25 salmon, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay; in this section, "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53°E/CS> 52.64' N. lat., 166°E/CS> 32.30' W. long., to a point on the Unalaska Bay shore at 53°E/CS> 52.68' N. lat., 166°E/CS> 30.91' W. long;*

*(2) a permit holder may obtain an additional permit from the department to harvest more salmon other than sockeye salmon from Front Beach in Unalaska Bay.*

(c) *A record of subsistence-caught fish must be kept on the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.*

Sport Regulations

**Alaska Peninsula and Aleutian Islands Area**

*5 AAC 65.020. General provisions for seasons and bag, possession, annual, and size limits for the Alaska Peninsula and Aleutian Islands Area*

*Except as otherwise provided in 5 AAC 65.022, 5 AAC 65.051, or by an emergency order issued under AS 16.05.060, the seasons and bag, possession, annual, and size limits for finfish and shellfish in the Alaska Peninsula and Aleutian Islands Area are as follows:*

*(1) king salmon:*

*(A) in fresh waters: may be taken only from January 1 through July 25, except that king salmon may be taken in the Chignik River only from January 1 through August 9, and as follows:*



(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five fish; a harvest record is required as specified in 5 AAC 75.006;

(ii) less than 20 inches in length; bag and possession limit of 10 fish; no annual limit;

\*\*\*

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

(A) 20 inches or greater in length; bag limit of five fish and a possession limit of 10 fish;

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

5 AAC 65.022. Special provisions for bag, possession, and annual limits, and methods and means in the Alaska Peninsula and Aleutian Islands Area

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(e) In the salt waters and all freshwater drainages of Unalaska Bay, the bag and possession limit for salmon, other than king salmon, is five fish per day, five fish in possession, of which no more than two fish may be coho salmon and two fish may be sockeye salmon.

5 AAC 65.051. Waters closed to sport fishing in the Alaska Peninsula and Aleutian Islands Area

The following waters are closed to sport fishing in the Alaska Peninsula and Aleutian Island Area:

(1) that portion of the Makushin River drainage upstream from an ADF&G regulatory marker located approximately two miles upstream from its mouth;

(2) that portion of the Nateekin River drainage upstream from an ADF&G regulatory marker located approximately two miles upstream from its mouth (immediately below the canyon hole);

(3) Humpy Cove and Summer Bay Lake outlet creeks;

(4) the following areas on and around Unalaska Island are closed to sport fishing as follows:

*(A) the Illiuliuk River drainage, including Illiuliuk Creek (also known as Town or Unalaska Creek), Illiuliuk [Unalaska] Lake, and all waters flowing into Illiuliuk Lake,*

*(i) is closed to sport fishing for sockeye salmon;*

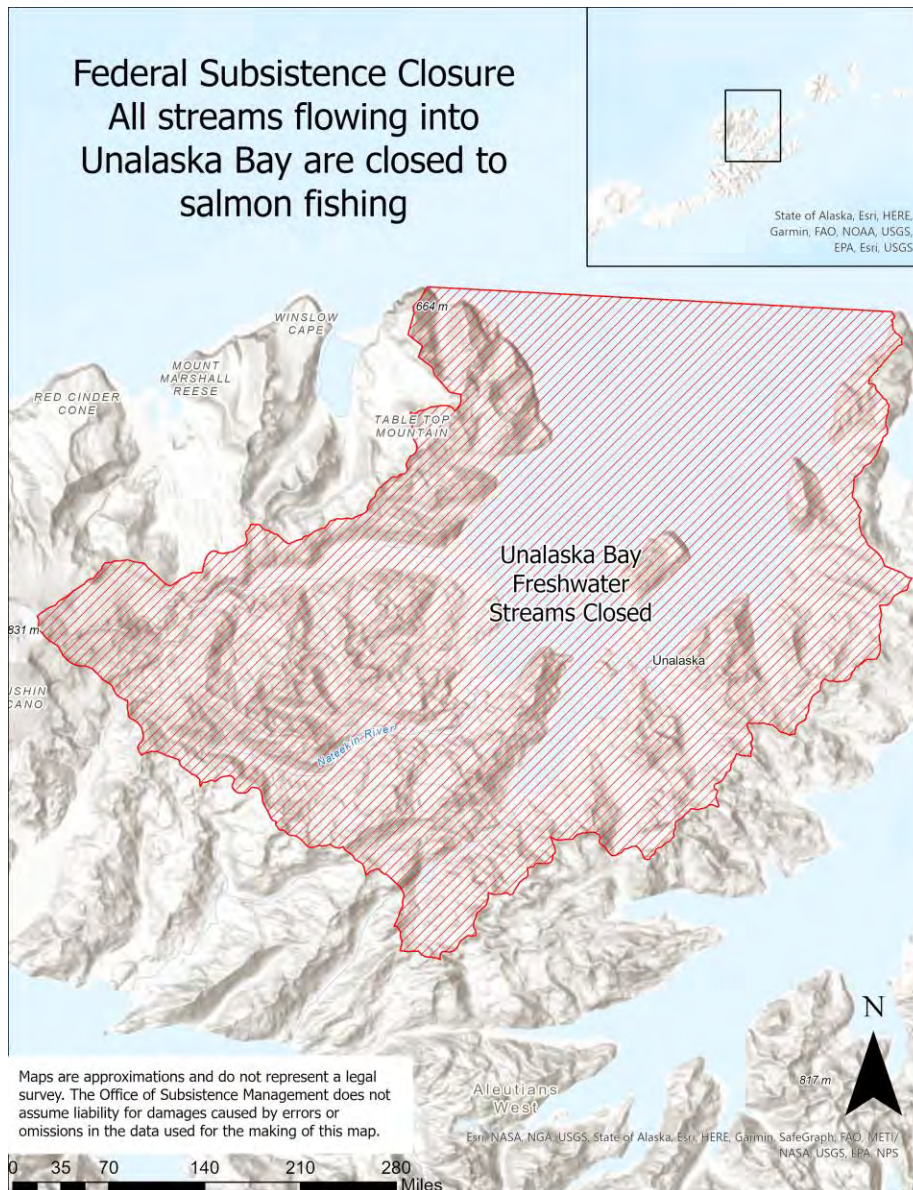
*(ii) upstream from ADF&G regulatory markers located at the Church Hole [in Unalaska Creek], is closed to sport fishing for salmon;*

*(B) the Summer Bay Lake drainage and salt waters within a 250-yard radius of the Summer Bay Creek outlet are closed to sport fishing from August 16 through December 31;*

**Regulatory Year Initiated:** 2001

**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 Unalaska Bay drainages comprise all freshwaters within and adjacent to the exterior boundaries of Alaska Maritime Wildlife Refuge flowing into Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point (**Figure 1**).



**Figure 1.** Map of freshwater drainages flowing into Unalaska Bay. Anadromous streams within these drainages are closed to Federal subsistence salmon fishing.

**Customary and Traditional Use Determination**

Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for salmon in the Aleutian Islands Area.

**Regulatory History**

In 1999, the Federal Subsistence Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries regulations, (64 Fed. Reg. 5, 1284 [January 8, 1999]). However, this closure was not adopted until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

**Closure last reviewed**

There have been no previous reviews of this closure.

**Justification for Original Closure**

In 1999, the Federal Subsistence Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries regulations, (64 Fed. Reg. 5; 1284 [January 8, 1999]).

**Council Recommendation for Original Closure**

None

**State Recommendation for Original Closure**

None

**Biological Background**

There are many anadromous fish streams flowing into Unalaska Bay. Notable ones include Makushin Valley, Nateekin, Shaishnikof, Iliuliuk (Unalaska) Rivers, and Summer and Morris Lake drainages. Anadromous species present in these drainages, according to the ADF&G Anadromous Waters Catalog, is displayed in **Table 1** (Johnson and Blossom 2021).

**Table 1.** Primary freshwater streams flowing into Unalaska Bay

| <b>Drainage</b>                  | <b>Species present</b>            |
|----------------------------------|-----------------------------------|
| Makushin River (Broad Bay)       | Chum, Coho, Pink, Dolly Varden    |
| Nateekin River                   | Coho, Pink                        |
| Shaishnikof River (Captains Bay) | Chum, Coho, Pink                  |
| Iliuliuk (Unalaska) Drainage     | Coho, Pink, Sockeye, Dolly Varden |
| Summer Lake                      | Coho, Pink, Sockeye               |
| Morris Lake                      | Coho, Sockeye                     |

Unalaska Bay drainages are not monitored through the annual ADF&G aerial indexing. From 2018-2021, aerial surveys were conducted to enumerate salmon in Unalaska road system drainages using drones (Lawson 2020; Fox et al. 2020, 2021, 2022). The surveys, conducted by Aleutian Aerial LLC and funded by the Unalaska Native Fisherman’s Association, the Ounalashka Corporation, and the City of Unalaska, were commissioned out of concern for the lack of escapement estimates for Sockeye Salmon on the road system of Unalaska Island. The footage was provided to the Alaska Department of Fish and Game (ADF&G), who reviewed the footage and estimated the runs (**Table 2**). The ADF&G

also provided feedback for continued improvement of the aerial video monitoring methods, with the hopes of continuing these surveys.

**Table 2.** Sockeye Salmon escapement indices on the Unalaska road system based on aerial drone surveys, 2018-2020.

| <b>Year</b> | <b>Iliuliuk (Unalaska)</b> | <b>Summer Lake</b> | <b>Morris Lake</b> |
|-------------|----------------------------|--------------------|--------------------|
| 2018        | 583                        | 3,622              | 315                |
| 2019        | 350                        | 2,575              | 376                |
| 2020        | 815                        | 4,507              | 106                |

### **Cultural Knowledge and Traditional Practices**

Contemporary subsistence patterns in Unalaska are primarily derived from the Unangan (also known as Aleut) cultural traditions of harvesting a vast array of resources available in the tempestuous, temperate and extremely diverse maritime environment. Marine mammals, multiple types of fish, crab, mollusks, birds, plants, berries and driftwood provided the means for Unangan people and culture to flourish on the islands for at least nine thousand years (Gillespie 2018:5). Just two examples of Unangan science and engineering derived from traditional ecological knowledge include the invention of kayaks and the creation of baskets woven from beach grasses that are watertight. Some Unangan traditions were modified by Russians during the colonial period but mostly, Russians adapted to Unangan patterns of subsistence and survival. Unangan subsistence and cultural traditions are practiced in contemporary times; this is critical to the maintenance of the cultural identity of the Unangan people of Unalaska. Unalaska/Dutch Harbor has become one of the most productive commercial fishing ports in the world and has attracted people from all over the world. Unangan traditions and traditional knowledge continue to influence those who are drawn to the rich maritime environment.

### **Harvest History**

Subsistence harvest is reported on State issued subsistence fishing permits. Subsistence fishers around Unalaska primarily target Sockeye Salmon in Reese Bay that are returning to McLees Lake. However, in 2020 subsistence fishers reported harvesting an equal amount from the “Other Locations” category, probably due to a low return to McLees Lake (**Tables 3 and 4**; Fox et. al 2022). Most of this harvest occurred at Volcano Bay which is not located within Unalaska Bay.

**Table 3.** Estimated Unalaska Sockeye Salmon harvest by major location, in number of fish, 2020 (adapted from Fox et al. 2022).

| Location <sup>a</sup>  | Sockeye Harvest <sup>b</sup> | Percent of total harvest |
|------------------------|------------------------------|--------------------------|
| Reese Bay (Wislow)     | 613                          | 45%                      |
| Broad Bay              | 6                            | 0%                       |
| Wide Bay               | 0                            | 0%                       |
| Nateeken Bay           | 0                            | 0%                       |
| Captains Bay           | 0                            | 0%                       |
| Unalaska Lake vicinity | 136                          | 10%                      |
| Other locations        | 610                          | 45%                      |
| <b>Totals</b>          | <b>1,365</b>                 | <b>100%</b>              |

<sup>a</sup> Some permits fished in more than one location.

<sup>b</sup> Reported harvest from returned subsistence permits. Harvest from unreturned permits was not estimated.

**Table 4.** Estimated Unalaska Coho Salmon harvest by major location, in number of fish, 2020 (adapted from Fox et al. 2022).

| Location <sup>a</sup>  | Coho Harvest <sup>b</sup> | Percent of total harvest |
|------------------------|---------------------------|--------------------------|
| Reese Bay (Wislow)     | 4                         | 1%                       |
| Broad Bay              | 65                        | 15%                      |
| Wide Bay               | 1                         | 0%                       |
| Nateeken Bay           | 1                         | 4%                       |
| Captains Bay           | 170                       | 40%                      |
| Unalaska Lake vicinity | 34                        | 8%                       |
| Other locations        | 130                       | 31%                      |
| <b>Totals</b>          | <b>420</b>                | <b>100%</b>              |

<sup>a</sup> Some permits fished in more than one location.

<sup>b</sup> Reported harvest from returned subsistence permits. Harvest from unreturned permits was not estimated.

## Effects

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), "...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over taking on such lands of fish and wildlife for other purposes." There are currently nonsubsistence uses permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon in freshwater drainages flowing into Unalaska Bay, thereby providing priority consumptive use to Federally qualified subsistence users. Rescinding this closure would not affect the Federal subsistence salmon closures of the outlet streams of the Unalaska, Summers, and Morris Lake drainages.

If the closure is rescinded, Federal subsistence regulations for the Aleutian Islands Area would apply which could lead to overharvest and conservation concerns. To conserve fish populations, the Federal

in-season manager could issue a special action to set provisions for the fishery, such as stipulating gear types like rod and reel only and setting conservative harvest limits.

## OSM PRELIMINARY 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)(6) *Aleutian Islands Area*

(iv) *You may not subsistence fish for salmon in the following waters:*

\*\*\*

~~(C) All streams supporting anadromous fish runs that flow into Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point.~~

\*\*\*

## Justification

These drainages are currently closed to the harvest of salmon by Federally qualified subsistence users but remain open to other uses. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The closure broadly covers all streams flowing into Unalaska Bay and overlaps with the Federal subsistence salmon closures of the outlet streams of the Unalaska, Summers, and Morris Lake drainages. There is no evidence to suggest it is necessary to close all Federal public streams in Unalaska Bay to salmon fishing. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries (**Appendix 2**). The in-season manager can use this authority to manage the fishery in the short term. A proposal outlining desired parameters for this fishery may be submitted during the next fisheries cycle so they can be put into regulation.

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**SELECTED SUBSISTENCE REGULATIONS**

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Unalaska Area.

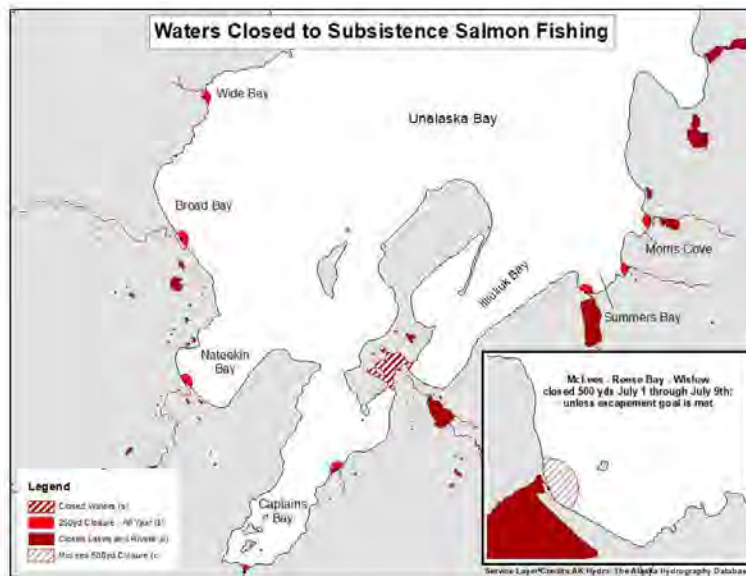
**5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN:** 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay. "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53° 52.64' N. lat., 166° 32.30' W. long., to a point on the Unalaska Bay shore at 53° 52.68' N. lat., 166° 30.91' W. long. Additional household permits are available by request from the local ADF&G representative.

**5 AAC 01.375. CLOSED WATERS: (see map below)**

- a. The waters of Unalaska Lake (at the city of Unalaska), its tributaries and the outlet stream, and all waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long. and north of a line from a point south of Agnes Beach at 53° 52.28' N. lat., 166° 32.68' W. long. to a point at 53° 52.35' N. lat., 166° 32.95' W. long. on Amaknak Island.
- b. Within Unalaska Bay (south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point): **all waters are closed to subsistence salmon fishing within the waters of all streams, lakes, and within 250 yards of any anadromous stream outlet** (except for the vicinity of Unalaska Lake as described above in (a) above).
- c. At Reese Bay (Wislow), no subsistence salmon fishing is allowed in the waters of McLees Lake and its drainages or tributaries. **No subsistence salmon fishing is allowed within 500 yards of the terminus of the McLees Lake outlet during July 1 through July 9.**

**ADDITIONAL RESTRICTIONS:**

- 1. This permit must be carried by permit holder while harvesting and transporting subsistence caught salmon and must be readily available for inspection.
- 2. The number of subsistence salmon, the species, the location of the catch, and the date of catch must be recorded on this permit immediately after harvest. Maintain a consistent tally of your catch on the permit. This includes fish that are given away or shared.
- 3. Subsistence fisherman must be in attendance of their net at all times that it is fished.
- 4. In the Unalaska District, subsistence net may be fished ONLY from 6:00 AM through 9:00 PM daily.
- 5. Only household members listed on the permit may assist in the harvest of subsistence salmon.
- 6. Salmon may be taken by seine or gillnet. Gillnets are restricted to 50 fathoms total length. Each gillnet must have a buoy on each end. The name and address of the operator must be plainly and legibly inscribed on each buoy.
- 7. From June 1 through September 15, a salmon seine vessel may not be used to take salmon for subsistence use 24 hours before or 12 hours after an open commercial fishing period within an area open to commercial salmon fishing.
- 8. Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.
- 9. No more than half the width of a stream or its mouth may be obstructed by a net. This restriction includes blocking the stream mouth while "roundhauling."



For questions contact Fish and Game office: Dutch Harbor (907) 581-1239; Kodiak (907) 486-1882.

**APPENDIX 2**  
**DELEGATION OF AUTHORITY LETTER TO THE INSEASON MANAGER OF THE**  
**SOUTHWEST ALASKA AREA**

Branch Chief - Fisheries  
U.S. Fish and Wildlife Service  
Anchorage Fish and Wildlife Conservation Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Branch Chief:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Branch Chief - Fisheries of the Anchorage Fish and Wildlife Conservation Office (Branch Chief) to issue emergency special actions when necessary to ensure the conservation of a healthy fish population, to continue subsistence uses of fish, for the continued viability of a fish population, or for public safety reasons. This delegation only applies to Federal public waters subject to the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII in the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas.

It is the intent of the Board that Federal subsistence fisheries management by Federal officials be coordinated, prior to implementation, with Regional Advisory Council (Council) representatives, the Office of Subsistence Management (OSM), and the Alaska Department of Fish and Game (ADF&G), to the extent possible. The OSM will be used by managers to facilitate communication of actions and to ensure proposed actions are technically and administratively aligned with legal mandates and policies. Federal managers are expected to cooperate with managers from the State and other Federal agencies, the Council Chair(s), and applicable Council members to minimize disruption to resource users and existing agency programs, consistent with the need for emergency special action.

**DELEGATION OF AUTHORITY**

- 1. Delegation:** The Branch Chief is hereby delegated authority to issue emergency special actions affecting fisheries in Federal public waters as outlined under the **Scope of Delegation** below. Although a public hearing is not required for emergency special actions, if deemed necessary by you, then a public hearing on the emergency special action is recommended. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.
- 2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: “The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board.”
- 3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(a) and 50 CFR 100.19(a). Such an emergency action may not exceed 60 days, and may not be extended.

This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries.

This delegation also permits you to close and re-open Federal public waters to nonsubsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve healthy populations of fish or to ensure the continuation of subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations or requests for special actions greater than 60 days, shall be directed to the Board.

The Federal public waters subject to this delegated authority are those within the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). You will coordinate all local fishery decisions with all affected Federal land managers.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Review of Proposed Special Actions:** You will use the following guidelines to determine the appropriate course of action when reviewing proposed special actions.

- a) Does the proposed special action fall within the geographic and regulatory scope of delegation?
- b) Have you communicated with the OSM to ensure the emergency special action is aligned with Federal subsistence regulations and policy?
- c) Does the proposed action need to be implemented immediately as an emergency special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the next regulatory cycle?
- d) Does the supporting information in the proposed special action substantiate the need for the action?
- e) Are the assertions in the proposed special action confirmed by available current biological information and/or by affected subsistence users?
- f) Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?
- g) Is the proposed special action likely to achieve the expected results?
- h) Have the perspectives of the Chair or alternate of the affected Council(s), OSM, and affected State and Federal managers been fully considered in the review of the proposed special action?
- i) Have the potential impacts of the proposed special action on all affected subsistence users and non-Federally qualified users within the drainage been considered?

j) Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?

k) After evaluating all information and weighing the merits of the special action against other actions, including no action, is the proposed emergency special action reasonable, rational, and responsible?

**6. Guidelines for Delegation:** You will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

You will provide subsistence users in the region a local point of contact about Federal subsistence fishery issues and regulations and facilitate a local liaison with State managers and other user groups. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. You will also establish meaningful and timely opportunities for government-to-government consultation related to pre-season and post-season management actions as established in the Board's Government to Government Tribal Consultation Policy (Federal Subsistence Board Government to Government Tribal Consultation Policy 2012).

You will review emergency special action requests or situations that may require an emergency special action and all supporting information to determine (1) consistency with 36 CFR 242.19 and 50 CFR 100.19, (2) if the request/situation falls within the scope of your delegated authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action may be on potentially affected subsistence uses and nonsubsistence uses. Requests not within your delegated authority will be forwarded to the Board for consideration.

You will maintain a record of all special action requests and justification of your decisions. A copy of this record will be provided to the Administrative Records Specialist at OSM no later than sixty days after development of the document.

You will immediately notify the Board through the Assistant Regional Director for the OSM, and coordinate with Chair or alternate of the affected Council(s), local ADF&G managers, and other affected Federal conservation unit managers concerning emergency special actions being considered.

If the timing of a regularly scheduled meeting of the affected Council(s) permits without incurring undue delay, you may seek Council recommendations on the proposed emergency special action.

You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify Council representatives, the public, OSM, affected State and Federal managers, and law enforcement personnel. If an action is to supersede a State action not yet in effect, the decision will be communicated to Council representatives, the public, OSM, and State and Federal managers at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponents of the request immediately.

You may defer an emergency special action request, otherwise covered by the delegation of authority, to the Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. These options should be exercised judiciously and only when sufficient time allows. Such deferrals should not be considered

when immediate management actions are necessary for conservation purposes. The Board may determine that an emergency special action request may best be handled by the Board, subsequently rescinding the delegated authority for the specific action only.

**7. Reporting:** You must provide to the Board, through the Assistant Regional Director for the OSM, a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15. A summary of emergency special action requests and your resultant actions must be provided to the coordinator of the appropriate Council(s) at the end of the calendar year for presentation during regularly scheduled Council meetings.

**8. Support Services:** Administrative support for your local Federal subsistence fisheries management activities will be provided by the Office of Subsistence Management.

Should you have any questions about this delegation of authority, please feel free to contact the Assistant Regional Director for the OSM at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,



Anthony Christianson  
Chair

Enclosures: Maps of the Bristol Bay, Aleutian Islands, and Alaska Peninsula/Chignik areas

cc: Federal Subsistence Board

Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Policy Coordinator, Office of Subsistence Management  
Fisheries Division Supervisor, Office of Subsistence Management  
Chair, Bristol Bay Subsistence Regional Advisory Council  
Chair, Kodiak/Aleutians Subsistence Regional Advisory Council  
Superintendent, Lake Clark/Katmai National Parks and Preserve  
Manager, Togiak National Wildlife Refuge  
Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex  
Manager, Izembek National Wildlife Refuge  
Manager, Alaska Maritime National Wildlife Refuge  
Assistant Regional Director, Law Enforcement, U.S. Fish and Wildlife Service (Region 7)  
Commissioner, Alaska Department of Fish and Game  
Interagency Staff Committee  
Administrative Record

| <b>FCR21-08 Executive Summary</b>  |  |
|--|--|
| <b>General Description</b>   | FCR21-08 is a routine review of a Federal fishery closure to salmon fishing in the Unalaska Lake drainage.   |
| <b>Current Regulation</b>  | <p>§ __.27(e)(6) <i>Aleutian Islands Area</i></p> <p style="text-align: center;">***</p> <p><i>(iv) You may not subsistence fish for salmon in the following waters:</i></p> <p style="text-align: center;"><i>(A) The waters of Unalaska Lake, its tributaries and outlet stream;</i></p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |

**FEDERAL FISHERIES DRAFT CLOSURE REVIEW  
FCR21-08**

**Issue**

FCR21-08 is a routine review of a Federal fishery closure to salmon fishing in the Unalaska Lake drainage. 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:** Unalaska Lake drainage—Salmon

**Current Federal Regulation**

§ \_\_\_\_.27(e)(6) *Aleutian Islands Area*

\*\*\*

(iv) *You may not subsistence fish for salmon in the following waters:*

(A) *The waters of Unalaska Lake, its tributaries and outlet stream;*

**Relevant Federal Regulations**

§ \_\_\_\_.25 *Subsistence taking of fish, wildlife, and shellfish: general regulations.*

(a) *Definitions. The following definitions apply to all regulations contained in this part:*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

§ \_\_\_\_.27 *Subsistence taking of fish*

\*\*\*

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

\*\*\*

(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.*

\*\*\*

*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

§\_\_\_\_.27(e)(6) Aleutian Islands Area

\*\*\*

*(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.*

\*\*\*

*(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.*

*(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.*

*(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.*

*(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.*

*(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.*

Note: In the Unalaska District, all users are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (**Appendix 1**, see 5 AAC 01.380. Subsistence fishing permits).

**Closure Dates:** Year-round

## **Current State Regulations**

### Subsistence Regulations

#### *Aleutian Islands Area*

##### *5 AAC 01.370. Lawful gear and gear specifications*

*(a) Salmon may be taken by seine and gillnet, or with gear specified on a subsistence fishing permit.*

\*\*\*

*(d) In the Unalaska District, a subsistence permit holder fishing with a net must be physically present at the net at all times when the net is being used for fishing.*

##### *5 AAC 01.375 Waters closed to subsistence fishing*

*The following waters are closed to subsistence fishing for salmon:*

*(1) waters of Unalaska Lake (at the city of Unalaska), its tributaries and outlet stream, and waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53\_ 52.64' N. lat., 166\_ 32.30' W. long. to a point on Amaknak Island at 53\_ 52.82' N. lat., 166\_ 32.13' W. long., and north of line from a point south of Agnes Beach at 53\_ 52.28' N. lat., 166\_ 32.68' W. long. to a point at 53\_ 52.35' N. lat., 166\_ 32.95' W. long. on Amaknak Island;*

##### *5 AAC 01.380. Subsistence fishing permits*

*(a) Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(b) No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts,*

*(1) the holder of a subsistence salmon fishing permit may take no more than 25 salmon, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member*

*of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay; in this section, "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53°E/CS> 52.64' N. lat., 166°E/CS> 32.30' W. long., to a point on the Unalaska Bay shore at 53°E/CS> 52.68' N. lat., 166°E/CS> 30.91' W. long;*

*(2) a permit holder may obtain an additional permit from the department to harvest more salmon other than sockeye salmon from Front Beach in Unalaska Bay.*

*(c) A record of subsistence-caught fish must be kept on the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.*

### Sport Regulations

#### *Alaska Peninsula and Aleutian Islands Area*

*5 AAC 65.022. Special provisions for bag, possession, and annual limits, and methods and means in the Alaska Peninsula and Aleutian Islands Area*

*\*\*\**

*(e) In the salt waters and all freshwater drainages of Unalaska Bay, the bag and possession limit for salmon, other than king salmon, is five fish per day, five fish in possession, of which no more than two fish may be coho salmon and two fish may be sockeye salmon.*

*5 AAC 65.051. Waters closed to sport fishing in the Alaska Peninsula and Aleutian Islands Area*

*(4) the following areas on and around Unalaska Island are closed to sport fishing as follows:*

*(a) the Illiuliuk River drainage, including Illiuliuk Creek (also known as Town or Unalaska Creek), Illiuliuk [Unalaska] Lake, and all waters flowing into Illiliuk Lake,*

*(i) is closed to sport fishing for sockeye salmon;*

*(ii) upstream from ADF&G regulatory markers located at the Church Hole [in Unalaska Creek], is closed to sport fishing for salmon;*

**Regulatory Year Initiated:** 2001

**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 comprise Unalaska Lake (also known as Iliukiuk Lake) and its tributaries and outlet streams, which are within and adjacent to the exterior boundaries of the Alaska Maritime National Wildlife Refuge (**Figure 1** and **Figure 2**).



**Figure 1.** Map showing Unalaska Lake drainage closure.



**Figure 2.** Aerial image of Unalaska Lake. Photo courtesy of Andy Dietrick, Aleutian Aerial LLC.

### **Customary and Traditional Use Determination**

Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for all fish in the Aleutian Islands Area.

### **Regulatory History**

In 1991, the Federal Subsistence Management Program adopted final temporary regulations for the harvest of fish for subsistence uses in non-navigable waters within and adjacent to the exterior boundaries of Federal public lands (56 Fed. Reg. 123, 29352 [June 26, 1991]). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations, “These temporary regulations attempt throughout to limit change from the State regulations to that necessary to fulfill the Secretaries’ responsibilities pursuant to title VIII” (56 Fed. Reg. 123, 29311 [June 26, 1991]).

In 1992, the Federal Subsistence Board (Board) adopted final regulations for fish management and rescinded the closure (57 Fed. Reg. 103, 22564 [May 28, 1992]). In 1997, the closure was in the proposed rule for the management of fish in navigable waters, in addition to non-navigable waters. The justification was that “The proposed wording of these sections is based on the existing State subsistence regulations with some exceptions” (62 Fed. Reg. 242, 66220 [December 17, 1997]).

In 1999, the Board adopted Federal regulations for fish in navigable waters, in addition to non-navigable waters, but this closure was not included (64 Fed. Reg. 5, 1307 [January 8, 1999]). In 2001, the closure under review in this analysis was added to Federal regulations (66 Fed. Reg. 30, 10154 [February 13, 2001]).

### **Closure Last Reviewed**

A review was initiated during the 2021 fish proposal cycle and was recommended to be deferred by the Kodiak Aleutian Subsistence Regional Advisory Council to allow for additional feedback from the rural public in affected communities. The Board subsequently deferred the review until the 2023 fisheries regulatory cycle.

### **Justification for Original Closure**

In 1997, the closure was in the proposed rule for the management of fish in navigable waters, in addition to non-navigable waters. The justification was that “The proposed wording of these sections is based on the existing State subsistence regulations with some exceptions” (62 Fed. Reg. 242, 66220 [December 17, 1997]). It was adopted as final in 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

### **Council Recommendation for Original Closure**

None

### **State Recommendation for Original Closure**

None

### **Biological Background**

This system has been identified to contain Coho, Pink, and Sockeye salmon and Dolly Varden (Johnson and Blossom 2018). From 2018-2021, aerial surveys were conducted to enumerate salmon in Unalaska road system drainages using drones (Lawson 2020; Fox et al. 2020, 2021, 2022). The surveys, conducted by Aleutian Aerial LLC and funded by the Unalaska Native Fisherman’s Association, the Ounalashka Corporation, and the City of Unalaska, were commissioned out of concern for the lack of escapement estimates for Sockeye Salmon on the road system of Unalaska Island. The footage was provided to the Alaska Department of Fish and Game (ADF&G), who reviewed the footage and estimated the runs. The ADF&G also provided feedback for continued improvement of the aerial video monitoring methods, with the hopes of continuing these surveys. Minimum escapements (**Table 1**) indicate that this is currently a very small run for each salmon species. Additionally, substantial erosion and siltation of this system has been observed as identified by the brown colored shallow water at head of Unalaska Lake in **Figure 2**. Heavy siltation of this lake over decades may have eliminated shore spawning habitat for lake shore spawning Sockeye Salmon.

**Table 1.** Minimum salmon escapements at Unalaska Lake in 2018-2020, based on aerial drone surveys. Surveys did not include all habitat used by Pink Salmon and were not conducted during the peak of Coho Salmon abundance (Lawson 2020).

| Year | Sockeye Salmon | Pink Salmon | Coho Salmon |
|------|----------------|-------------|-------------|
| 2018 | 583            | 605         | 21          |
| 2019 | 350            | 25          | 0           |
| 2020 | 815            | 1,150       | 0           |

### Cultural Knowledge and Traditional Practices

Contemporary subsistence patterns in Unalaska are primarily derived from the Unangan (also known as Aleut) cultural traditions of harvesting a vast array of resources available in the tempestuous, temperate, and extremely diverse maritime environment. Marine mammals, multiple types of fish, crab, mollusks, birds, plants, berries, and driftwood provided the means for Unangan people and culture to flourish on the islands for at least nine thousand years (Gillespie 2018:5). Just two examples of Unangan science and engineering derived from traditional ecological knowledge include the invention of kayaks and the creation of watertight baskets woven from beach grasses. Some Unangan traditions were modified by Russians during the colonial period but mostly, Russians adapted to Unangan patterns of subsistence and survival. Unangan subsistence and cultural traditions are practiced in contemporary times; this is critical to the maintenance of the cultural identity of the Unangan people of Unalaska. Unalaska/Dutch Harbor has become one of the most productive commercial fishing ports in the world and has attracted people from all over the world. Unangan traditions and traditional knowledge continue to influence those who are drawn to the rich maritime environment.

The city of Unalaska is situated on Unalaska Island and is the largest city in the Aleutian Islands. The Port of Dutch Harbor is situated on adjacent Amaknak Island and is connected to Unalaska by a strip of road bridging the South Channel. This port city supports one of the largest commercial fisheries in the world. According to the 2020 United States Census, Unalaska has a population of 4,254 people. Considering the industrial scale of the fisheries operations there, many of the “residents” as recorded in the 2020 census may be seasonal workers that do not claim permanent Alaskan residency. As a context for assessing the actual number of permanent residents in Unalaska, in “Subsistence Fisheries Harvest Assessment and Traditional Ecological Knowledge, Lower Alaska Peninsula and Aleutian Islands,” Davis lists the population of Unalaska in 2000 as 2,091 people, less than half that of the 2000 census (4,283) (Davis 2005). Researchers specifically excluded any group quarter residents.

The most recent comprehensive subsistence surveys conducted by the ADF&G, Division of Subsistence were completed in 1993 (Scarborough and Fall 1997). During the study year, permanent residents of Unalaska harvested approximately 195 lbs. of subsistence foods per person, of which approximately 28%, or 54 lbs. per person, was salmon. Harvest methods for the salmon caught that year were “subsistence methods” (primarily nets, 62% of the salmon harvest), rod and reel (34% of the salmon harvest), and removal from commercial harvests (4% of the salmon harvest) (Scarborough and Fall 1997).

In 2013, Reedy conducted a partial house-to-house salmon harvest survey in Unalaska and made these observations:

*Many people go beach seining at Front Beach in Unalaska Bay for salmon in the summer months. The culture camp seines for pinks as well. Pink Salmon are the most abundant on the island but not the most desired fish. Their eggs are harvested and can be stored frozen. Sockeye is the most desired fish but abundance is down and this is blamed by locals on road construction, culverts, sediment runoff, and siltation ruining spawning beds. . . . A high school class runs the local Coho Salmon hatchery in the Iliuliuk River led by the science teacher, and the students are stewards of the river and its fish. Locals make lox with the salmon. Silvers are often smoked. Many keep Sockeye heads for soup (Reedy 2016: 25).*

### **Harvest History**

A State subsistence fishery for fish returning to this system exists in the marine waters near the mouth of the drainage, at Front Beach and beyond the channel bridge connecting to Little South America. There is also a marine waters State sport fishery, primarily with snagging gear, that takes place in close vicinity to the mouth of the Iliuliuk drainage in Margaret's Bay. The primary fish species targeted in this snag fishery is Sockeye Salmon. Although other Sockeye Salmon systems exist in Unalaska Bay, much of the harvest from this snag fishery was probably returning to the Iliuliuk drainage. Both fisheries are conducted in the two access directions salmon must pass to get into the Iliuliuk drainage. The marine waters harvest is primarily Sockeye Salmon, but some Coho Salmon are also caught. During even years, Pink Salmon dominate the escapement into this system and are easily harvested both in the sport and marine based subsistence fisheries. Subsistence harvest in this area has contributed only a small percentage of overall subsistence harvest in the Unalaska Island area in the past few years, as most harvest has taken place in Reese Bay near McLees Lake (Fox et al. 2018, 2019).

Sport fishing under State regulations is the only harvest for salmon currently allowed in the Unalaska Lake system, also known as the Iliuliuk drainage. The entire drainage is closed year-round to fishing for Sockeye Salmon. Sport fishing for salmon (other than Sockeye Salmon) is allowed only downstream of the ADF&G regulatory marker located at the Church Hole, which is located at the top end of the intertidal zone by the Russian Orthodox Church. This limited fishing area is approximately 200 yards long and the standard salmon sport regulations for the area apply for the other salmon species present, allowing 5 per day and 5 in possession, of which 2 may be Coho Salmon. Dolly Varden regulations allow 10 per day and 10 in possession. Reported harvest from these areas is low enough that they are lumped into a general Alaska Peninsula/Aleutian lakes category that covers a broad swath of the region (Alaska Sport Fishing Survey database, May 28, 2020).

### **Effects**

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), "...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be



accorded priority over taking on such lands of fish and wildlife for other purposes.” There are currently nonsubsistence uses permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon in the Unalaska Lake drainage, thereby providing priority consumptive use to Federally qualified subsistence users.

If the closure is rescinded, Federal subsistence regulations for the Aleutian Islands Area would apply which could lead to overharvest and conservation concerns. Fishing for salmon would be allowed daily between 6 a.m. and 9 p.m. and would require a State subsistence permit (since there are no Federal subsistence fishing permits for this area) with reporting due annually by October 31. Salmon could be taken by seine or gillnet, and gillnets would have to be physically supervised at all times when in use. In the Unalaska District, salmon harvest is limited to 25 salmon plus an additional 25 salmon for each member of a household listed on a permit. To conserve fish populations, the Federal in-season manager could issue a special action to set provisions for the fishery, such as stipulating gear types like rod and reel only and setting conservative harvest limits.

### OSM PRELIMINARY 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)(6) *Aleutian Islands Area*

\*\*\*

(iv) *You may not subsistence fish for salmon in the following waters:*

~~(A) *The waters of Unalaska Lake, its tributaries and outlet stream;*~~

### Justification

The Unalaska Lake drainage is currently closed to the harvest of salmon by Federally qualified subsistence users but remains open to State sport fishing and there are State subsistence salmon opportunities in adjacent marine waters. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries (**Appendix 2**). The in-season manager can use this authority to manage the fishery in the short term. A proposal outlining desired parameters for this fishery may be submitted during the next fisheries cycle so they can be put into regulation.

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**SELECTED SUBSISTENCE REGULATIONS**

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Unalaska Area.

**5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN:** 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay. "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53° 52.64' N. lat., 166° 32.30' W. long., to a point on the Unalaska Bay shore at 53° 52.68' N. lat., 166° 30.91' W. long. Additional household permits are available by request from the local ADF&G representative.

**5 AAC 01.375. CLOSED WATERS: (see map below)**

- a. The waters of Unalaska Lake (at the city of Unalaska), its tributaries and the outlet stream, and all waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long. and north of a line from a point south of Agnes Beach at 53° 52.28' N. lat., 166° 32.68' W. long. to a point at 53° 52.35' N. lat., 166° 32.95' W. long. on Amaknak Island.
- b. Within Unalaska Bay (south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point): **all waters are closed to subsistence salmon fishing within the waters of all streams, lakes, and within 250 yards of any anadromous stream outlet** (except for the vicinity of Unalaska Lake as described above in (a) above).
- c. At Reese Bay (Wislow), no subsistence salmon fishing is allowed in the waters of McLees Lake and its drainages or tributaries. **No subsistence salmon fishing is allowed within 500 yards of the terminus of the McLees Lake outlet during July 1 through July 9.**

**ADDITIONAL RESTRICTIONS:**

- 1. This permit must be carried by permit holder while harvesting and transporting subsistence caught salmon and must be readily available for inspection.
- 2. The number of subsistence salmon, the species, the location of the catch, and the date of catch must be recorded on this permit immediately after harvest. Maintain a consistent tally of your catch on the permit. This includes fish that are given away or shared.
- 3. Subsistence fisherman must be in attendance of their net at all times that it is fished.
- 4. In the Unalaska District, subsistence net may be fished ONLY from 6:00 AM through 9:00 PM daily.
- 5. Only household members listed on the permit may assist in the harvest of subsistence salmon.
- 6. Salmon may be taken by seine or gillnet. Gillnets are restricted to 50 fathoms total length. Each gillnet must have a buoy on each end. The name and address of the operator must be plainly and legibly inscribed on each buoy.
- 7. From June 1 through September 15, a salmon seine vessel may not be used to take salmon for subsistence use 24 hours before or 12 hours after an open commercial fishing period within an area open to commercial salmon fishing.
- 8. Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.
- 9. No more than half the width of a stream or its mouth may be obstructed by a net. This restriction includes blocking the stream mouth while "roundhauling."



For questions contact Fish and Game office: Dutch Harbor (907) 581-1239; Kodiak (907) 486-1882.

**APPENDIX 2**  
**DELEGATION OF AUTHORITY LETTER TO THE INSEASON MANAGER OF THE**  
**SOUTHWEST ALASKA AREA**

Branch Chief - Fisheries  
U.S. Fish and Wildlife Service  
Anchorage Fish and Wildlife Conservation Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Branch Chief:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Branch Chief - Fisheries of the Anchorage Fish and Wildlife Conservation Office (Branch Chief) to issue emergency special actions when necessary to ensure the conservation of a healthy fish population, to continue subsistence uses of fish, for the continued viability of a fish population, or for public safety reasons. This delegation only applies to Federal public waters subject to the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII in the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas.

It is the intent of the Board that Federal subsistence fisheries management by Federal officials be coordinated, prior to implementation, with Regional Advisory Council (Council) representatives, the Office of Subsistence Management (OSM), and the Alaska Department of Fish and Game (ADF&G), to the extent possible. The OSM will be used by managers to facilitate communication of actions and to ensure proposed actions are technically and administratively aligned with legal mandates and policies. Federal managers are expected to cooperate with managers from the State and other Federal agencies, the Council Chair(s), and applicable Council members to minimize disruption to resource users and existing agency programs, consistent with the need for emergency special action.

**DELEGATION OF AUTHORITY**

- 1. Delegation:** The Branch Chief is hereby delegated authority to issue emergency special actions affecting fisheries in Federal public waters as outlined under the **Scope of Delegation** below. Although a public hearing is not required for emergency special actions, if deemed necessary by you, then a public hearing on the emergency special action is recommended. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.
- 2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: "The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board."
- 3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(a) and 50 CFR 100.19(a). Such an emergency action may not exceed 60 days, and may not be extended.

This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries.

This delegation also permits you to close and re-open Federal public waters to nonsubsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve healthy populations of fish or to ensure the continuation of subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations or requests for special actions greater than 60 days, shall be directed to the Board.

The Federal public waters subject to this delegated authority are those within the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). You will coordinate all local fishery decisions with all affected Federal land managers.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Review of Proposed Special Actions:** You will use the following guidelines to determine the appropriate course of action when reviewing proposed special actions.

- a) Does the proposed special action fall within the geographic and regulatory scope of delegation?
- b) Have you communicated with the OSM to ensure the emergency special action is aligned with Federal subsistence regulations and policy?
- c) Does the proposed action need to be implemented immediately as an emergency special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the next regulatory cycle?
- d) Does the supporting information in the proposed special action substantiate the need for the action?
- e) Are the assertions in the proposed special action confirmed by available current biological information and/or by affected subsistence users?
- f) Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?
- g) Is the proposed special action likely to achieve the expected results?
- h) Have the perspectives of the Chair or alternate of the affected Council(s), OSM, and affected State and Federal managers been fully considered in the review of the proposed special action?
- i) Have the potential impacts of the proposed special action on all affected subsistence users and non-Federally qualified users within the drainage been considered?

- j) Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?
- k) After evaluating all information and weighing the merits of the special action against other actions, including no action, is the proposed emergency special action reasonable, rational, and responsible?

**6. Guidelines for Delegation:** You will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

You will provide subsistence users in the region a local point of contact about Federal subsistence fishery issues and regulations and facilitate a local liaison with State managers and other user groups. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. You will also establish meaningful and timely opportunities for government-to-government consultation related to pre-season and post-season management actions as established in the Board's Government to Government Tribal Consultation Policy (Federal Subsistence Board Government to Government Tribal Consultation Policy 2012).

You will review emergency special action requests or situations that may require an emergency special action and all supporting information to determine (1) consistency with 36 CFR 242.19 and 50 CFR 100.19, (2) if the request/situation falls within the scope of your delegated authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action may be on potentially affected subsistence uses and nonsubsistence uses. Requests not within your delegated authority will be forwarded to the Board for consideration.

You will maintain a record of all special action requests and justification of your decisions. A copy of this record will be provided to the Administrative Records Specialist at OSM no later than sixty days after development of the document.

You will immediately notify the Board through the Assistant Regional Director for the OSM, and coordinate with Chair or alternate of the affected Council(s), local ADF&G managers, and other affected Federal conservation unit managers concerning emergency special actions being considered.

If the timing of a regularly scheduled meeting of the affected Council(s) permits without incurring undue delay, you may seek Council recommendations on the proposed emergency special action.

You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify Council representatives, the public, OSM, affected State and Federal managers, and law enforcement personnel. If an action is to supersede a State action not yet in effect, the decision will be communicated to Council representatives, the public, OSM, and State and Federal managers at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponents of the request immediately.

You may defer an emergency special action request, otherwise covered by the delegation of authority, to the Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. These options should be exercised judiciously and only when sufficient time allows. Such deferrals should not be considered



when immediate management actions are necessary for conservation purposes. The Board may determine that an emergency special action request may best be handled by the Board, subsequently rescinding the delegated authority for the specific action only.

**7. Reporting:** You must provide to the Board, through the Assistant Regional Director for the OSM, a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15. A summary of emergency special action requests and your resultant actions must be provided to the coordinator of the appropriate Council(s) at the end of the calendar year for presentation during regularly scheduled Council meetings.

**8. Support Services:** Administrative support for your local Federal subsistence fisheries management activities will be provided by the Office of Subsistence Management.

Should you have any questions about this delegation of authority, please feel free to contact the Assistant Regional Director for the OSM at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,



Anthony Christianson  
Chair

Enclosures: Maps of the Bristol Bay, Aleutian Islands, and Alaska Peninsula/Chignik areas

cc: Federal Subsistence Board

Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Policy Coordinator, Office of Subsistence Management  
Fisheries Division Supervisor, Office of Subsistence Management  
Chair, Bristol Bay Subsistence Regional Advisory Council  
Chair, Kodiak/Aleutians Subsistence Regional Advisory Council  
Superintendent, Lake Clark/Katmai National Parks and Preserve  
Manager, Togiak National Wildlife Refuge  
Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex  
Manager, Izembek National Wildlife Refuge  
Manager, Alaska Maritime National Wildlife Refuge  
Assistant Regional Director, Law Enforcement, U.S. Fish and Wildlife Service (Region 7)  
Commissioner, Alaska Department of Fish and Game  
Interagency Staff Committee  
Administrative Record

| <b>FCR21-09 Executive Summary</b>  |   |
|--|---|
| <b>General Description</b>   | FCR21-09 is a routine review of a Federal closure to salmon fishing at Summers and Morris Lakes drainages in the Aleutian Islands Area.   |
| <b>Current Regulation</b>  | <p>§ __.27(e)(6) <i>Aleutian Islands Area</i></p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(iv) You may not subsistence fish for salmon in the following waters:</i></p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(B) The waters of Summers and Morris Lakes and their tributaries and outlet streams;</i></p> <p style="text-align: center;">***</p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>  |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |   |
| <b>Interagency Staff Committee Comments</b>                                  |   |
| <b>ADF&amp;G Comments</b>  |   |
| <b>Written Public Comments</b>   | <b>None</b>   |

**FEDERAL FISHERIES DRAFT CLOSURE REVIEW  
FCR21-09**

**Issue**

FCR21-09 is a routine review of a Federal closure to salmon fishing at Summers and Morris Lakes drainages in the Aleutian Islands Area. 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:** Summers and Morris Lakes drainages—Salmon

**Current Federal Regulation**

§\_\_\_\_.27(e)(6) *Aleutian Islands Area*

\*\*\*

*(iv) You may not subsistence fish for salmon in the following waters:*

\*\*\*

*(B) The waters of Summers and Morris Lakes and their tributaries and outlet streams;*

\*\*\*

**Relevant Federal Regulations**

§\_\_\_\_.25 *Subsistence taking of fish, wildlife, and shellfish: general regulations.*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

§\_\_\_\_.27 *Subsistence Taking of Fish*

\*\*\*

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

\*\*\*

*(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.*

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*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

§\_\_\_\_.27(e)(6) Aleutian Islands Area

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*(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.*

\*\*\*

*(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.*

*(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.*

*(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.*

*(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.*

Note: In the Unalaska District, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (5 AAC 01.380 Subsistence fishing permits; see permit in **Appendix 1**).

**Closure Dates:** Year-round

## **Current State Regulations**

### Subsistence Regulations

#### *Alaska Peninsula Aleutian Islands Area*

#### *5 AAC 01.370. Lawful gear and gear specifications*

*(a) Salmon may be taken by seine and gillnet, or with gear specified on a subsistence fishing permit.*

*\*\**

*(d) In the Unalaska District, a subsistence permit holder fishing with a net must be physically present at the net at all times when the net is being used for fishing.*

#### *5 AAC 01.375 Waters closed to subsistence fishing*

*The following waters are closed to subsistence fishing for salmon:*

*\*\*\**

*(3) waters of Summers and Morris Lakes and their tributaries and outlet streams;*

*\*\*\**

#### *5 AAC 01.380. Subsistence fishing permits*

*(a) Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(b) No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit. . .*

*\*\*\**

*(2) a permit holder may obtain an additional permit from the department to harvest more salmon other than sockeye salmon from Front Beach in Unalaska Bay.*

*(c) A record of subsistence-caught fish must be kept on the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.*

### Sport Regulations

#### *Alaska Peninsula Aleutian Islands Area*

*5 AAC 65.020. General provisions for seasons and bag, possession, annual, and size limits for the Alaska Peninsula and Aleutian Islands Area*

*Except as otherwise provided in 5 AAC 65.022, 5 AAC 65.051, or by an emergency order issued under AS 16.05.060, the seasons and bag, possession, annual, and size limits for finfish and shellfish in the Alaska Peninsula and Aleutian Islands Area are as follows:*

\*\*\*

*(2) salmon, other than king salmon: may be taken from January 1 through December 31, as follows:*

*(A) 20 inches or greater in length; bag limit of five fish and a possession limit of 10 fish;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish;*

*5 AAC 65.051. Waters closed to sport fishing in the Alaska Peninsula and Aleutian Islands Area*

\*\*\*

*(3) Humpy Cove and Summer Bay Lake outlet creeks;*

\*\*\*

*(B) the Summer Bay Lake drainage and salt waters within a 250-yard radius of the Summer Bay Creek outlet are closed to sport fishing from August 16 through December 31;*

\*\*\*

**Regulatory Year Initiated: 2001**

### **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 comprise Summers and Morris Lakes and their tributaries and outlet streams, which are within and adjacent to the exterior boundaries of the Alaska Maritime National Wildlife Refuge (**Figure 1** and **Figure 2**).



**Figure 1.** Map of Morris Lake and Summers Lake drainage closures on Unalaska Island.



**Figure 2.** Aerial images of Summer (left) and Morris (right) lakes. Both systems are accessible through the road system. Photos courtesy of Andy Dietrick, Aleutian Aerial LLC.

### **Customary and Traditional Use Determination**

Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for all fish in the Aleutian Islands Area.

### **Regulatory History**

In 1999, the Federal Subsistence Board (Board) adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5, 1307 [January 8, 1999]). However, this closure was not included until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

### **Closure Last Reviewed**

A review was initiated during the 2021 fish proposal cycle and was recommended to be deferred by the Kodiak Aleutian Subsistence Regional Advisory Council to allow for additional feedback from the rural public in affected communities. The Board subsequently deferred the review until the 2023 fisheries regulatory cycle.

### **Justification for Original Closure**

In 1999, the Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries and shellfish regulations (64 Fed. Reg. 5, 1284 [January 8, 1999]). However, this closure was not included until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

### **Council Recommendation for Original Closure**

None

### **State Recommendation for Original Closure**

None

### **Biological Background**

Summer Lake and its primary tributary have been surveyed and found to contain Coho, Pink, and Sockeye salmon while Morris Lake and its primary tributary have been identified as containing Coho and Sockeye salmon (Johnson and Blossom 2018). From 2018-2020, aerial surveys were conducted to enumerate salmon in these systems using drones (Lawson 2020, Fox et al. 2022). The surveys, conducted by Aleutian Aerial LLC and funded by the Unalaska Native Fisherman's Association, the Ounalashka Corporation, and the City of Unalaska, were commissioned out of concern for the lack of escapement estimates for Sockeye Salmon on the road system of Unalaska Island. The footage was provided to the Alaska Department of Fish and Game (Department), who reviewed the footage and enumerated the runs. The Department also provided feedback for continued improvement of the aerial video monitoring methods, with the hopes of continuing these surveys. Minimum escapements (**Table 1**) indicate that while



these lakes have relatively small runs, there are considerably more salmon returning to Summer Lake as compared to Morris Lake.

**Table 1.** Minimum salmon escapements based on aerial drone surveys. Surveys did not include all habitat used by Pink Salmon and were not conducted during the peak of Coho Salmon abundance (Lawson 2020, Fox et al. 2022).

| Location           | Year | Sockeye Salmon | Pink Salmon | Coho Salmon |
|--------------------|------|----------------|-------------|-------------|
| Summer (Bay) Lake  | 2018 | 3,622          | 4,105       | 201         |
| Summer (Bay) Lake  | 2019 | 2,575          | 4,090       | 415         |
| Summer (Bay) Lake  | 2020 | 4,507          | 7,454       | 36          |
| Morris (Cove) Lake | 2018 | 315            | 7           | 0           |
| Morris (Cove) Lake | 2019 | 376            | 0           | 0           |
| Morris (Cove) Lake | 2020 | 106            | 354         | 0           |

### Cultural Knowledge and Traditional Practices

Contemporary subsistence patterns in Unalaska are primarily derived from the Unangan (also known as Aleut) cultural traditions of harvesting a vast array of resources available in the tempestuous, temperate and extremely diverse maritime environment. Marine mammals, multiple types of fish, crab, mollusks, birds, plants, berries and driftwood provided the means for Unangan people and culture to flourish on the islands for at least nine thousand years (Gillespie 2018:5). Just two examples of Unangan science and engineering derived from traditional ecological knowledge include the invention of kayaks and the creation of watertight baskets woven from beach grasses. Some Unangan traditions were modified by Russians during the colonial period but mostly, Russians adapted to Unangan patterns of subsistence and survival. Unangan subsistence and cultural traditions are practiced in contemporary times; this is critical to the maintenance of the cultural identity of the Unangan people of Unalaska. Unalaska/Dutch Harbor has become one of the most productive commercial fishing ports in the world and has attracted people from all over the world. Unangan traditions and traditional knowledge continue to influence those who are drawn to the rich maritime environment.

The city of Unalaska is situated on Unalaska Island and is the largest city in the Aleutian Islands. The Port of Dutch Harbor is situated on adjacent Amaknak Island and is connected to Unalaska by a strip of road bridging the South Channel. This port city supports one of the largest commercial fisheries in the world. According to the 2020 United States Census, Unalaska has a population of 4,254 people. Considering the industrial scale of the fisheries operations there, many of the “residents” as recorded in the 2020 census may be seasonal workers that do not claim permanent Alaskan residency. As a context for assessing the actual number of permanent residents in Unalaska, in “Subsistence Fisheries Harvest Assessment and Traditional Ecological Knowledge, Lower Alaska Peninsula and Aleutian Islands,” Davis lists the population of Unalaska in 2000 as 2,091 people, less than half that of the 2000 census (4,283) (Davis 2005). Researchers specifically excluded any group quarter residents.

The most recent comprehensive subsistence surveys conducted by the ADF&G, Division of Subsistence were completed in 1993 (Scarborough and Fall 1997). During the study year, permanent residents of Unalaska harvested approximately 195 lbs. of subsistence foods per person, of which approximately 28%, or 54 lbs. per person, was salmon. Harvest methods for the salmon caught that year were “subsistence methods” (primarily nets, 62% of the salmon harvest), rod and reel (34% of the salmon harvest), and removal from commercial harvests (4% of the salmon harvest) (Scarborough and Fall 1997).

In 2013, Reedy conducted a partial house-to-house salmon harvest survey in Unalaska and made these observations:

*Many people go beach seining at Front Beach in Unalaska Bay for salmon in the summer months. The culture camp seines for pinks as well. Pink salmon are the most abundant on the island but not the most desired fish. Their eggs are harvested and can be stored frozen. Sockeye is the most desired fish but abundance is down and this is blamed by locals on road construction, culverts, sediment runoff, and siltation ruining spawning beds. . . . A high school class runs the local coho salmon hatchery in the Iliuliuk River led by the science teacher, and the students are stewards of the river and its fish. Locals make lox with the salmon. Silvers are often smoked. Many keep sockeye heads for soup (Reedy 2016: 25).*

## **Harvest History**

There is no subsistence harvest to report in either system as both are closed to subsistence fishing. However, both drainages are open to sport fishing and salmon destined for these drainages are caught in adjacent marine sport and subsistence fisheries. Summer Lake, also referred to as Summer Bay Lake, is open to fishing January 1 – August 15, but Summer Bay Creek (outlet stream) is closed to sport fishing year-round. Morris Lake and its drainage are open to sport harvest year-round. Sport harvest limits for salmon in open areas of both locations are the same. Coho, Chum, Sockeye, and Pink salmon are limited to a combined total of 5 per day and 5 in possession, only 2 of which may be Coho Salmon and only 2 of which may be Sockeye Salmon. Rainbow Trout/Steelhead and Dolly Varden have harvest limits of 2 per day, 2 in possession and 10 per day, 10 in possession, respectively. Reported harvest from these areas is low enough that they are lumped into a general Alaska Peninsula/Aleutian lakes category that covers a broad swath of the region (Alaska Sport Fishing Survey database, May 28, 2020). According to the Sport Fish Area Management Biologist, most salmon harvest in the vicinity of these two drainages occurs in the marine environment (Polum 2020, pers. comm.).

## **Effects**

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), “...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over taking on such lands of fish and wildlife for other purposes.” There are currently nonsubsistence uses permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon in Summers

and Morris Lake drainages, thereby providing priority consumptive use to Federally qualified subsistence users.

If the closure is rescinded, Federal subsistence regulations for the Aleutian Islands Area would apply which could lead to overharvest and conservation concerns. Fishing for salmon would be allowed daily between 6 a.m. and 9 p.m. and would require a State subsistence permit with reporting due annually by October 31. Salmon could be taken by seine or gillnet, and gillnets would have to be physically supervised at all times when in use. The harvest of trout and char would also require a permit and fall under those terms. Fish other than salmon could be taken under any gear listed in the fishing regulations or with gear specified on the permit. In the Unalaska District, salmon harvest is limited to 25 salmon plus an additional 25 salmon for each member of a household listed on a permit. To conserve fish populations, the Federal in-season manager could issue a special action to set provisions for the fisheries, such as stipulating gear types like rod and reel only and setting conservative harvest limits.

**OSM PRELIMINARY 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)(6) *Aleutian Islands Area*

*(iv) You may not subsistence fish for salmon in the following waters:*

\*\*\*

~~*(B) The waters of Summers and Morris Lakes and their tributaries and outlet streams;*~~

\*\*\*

**Justification**

Summers and Morris Lake drainages are currently closed to the harvest of salmon by Federally qualified subsistence users but remain open to other uses. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries (**Appendix 2**). The in-season manager can use this authority to manage the fishery in the short term. A proposal outlining desired parameters for these fisheries may be submitted during the next fisheries cycle so they can be put into regulation.

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**SELECTED SUBSISTENCE REGULATIONS**

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Unalaska Area.

**5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN:** 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay. "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53° 52.64' N. lat., 166° 32.30' W. long., to a point on the Unalaska Bay shore at 53° 52.68' N. lat., 166° 30.91' W. long. Additional household permits are available by request from the local ADF&G representative.

**5 AAC 01.375. CLOSED WATERS: (see map below)**

- a. The waters of Unalaska Lake (at the city of Unalaska), its tributaries and the outlet stream, and all waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long. and north of a line from a point south of Agnes Beach at 53° 52.28' N. lat., 166° 32.68' W. long. to a point at 53° 52.35' N. lat., 166° 32.95' W. long. on Amaknak Island.
- b. Within Unalaska Bay (south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point): **all waters are closed to subsistence salmon fishing within the waters of all streams, lakes, and within 250 yards of any anadromous stream outlet** (except for the vicinity of Unalaska Lake as described above in (a) above).
- c. At Reese Bay (Wislow), no subsistence salmon fishing is allowed in the waters of McLees Lake and its drainages or tributaries. **No subsistence salmon fishing is allowed within 500 yards of the terminus of the McLees Lake outlet during July 1 through July 9.**

**ADDITIONAL RESTRICTIONS:**

- 1. This permit must be carried by permit holder while harvesting and transporting subsistence caught salmon and must be readily available for inspection.
- 2. The number of subsistence salmon, the species, the location of the catch, and the date of catch must be recorded on this permit immediately after harvest. Maintain a consistent tally of your catch on the permit. This includes fish that are given away or shared.
- 3. Subsistence fisherman must be in attendance of their net at all times that it is fished.
- 4. In the Unalaska District, subsistence net may be fished ONLY from 6:00 AM through 9:00 PM daily.
- 5. Only household members listed on the permit may assist in the harvest of subsistence salmon.
- 6. Salmon may be taken by seine or gillnet. Gillnets are restricted to 50 fathoms total length. Each gillnet must have a buoy on each end. The name and address of the operator must be plainly and legibly inscribed on each buoy.
- 7. From June 1 through September 15, a salmon seine vessel may not be used to take salmon for subsistence use 24 hours before or 12 hours after an open commercial fishing period within an area open to commercial salmon fishing.
- 8. Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.
- 9. No more than half the width of a stream or its mouth may be obstructed by a net. This restriction includes blocking the stream mouth while "roundhauling."



For questions contact Fish and Game office: Dutch Harbor (907) 581-1239; Kodiak (907) 486-1882.

**APPENDIX 2**  
**DELEGATION OF AUTHORITY LETTER TO THE INSEASON MANAGER OF THE**  
**SOUTHWEST ALASKA AREA**

Branch Chief - Fisheries  
U.S. Fish and Wildlife Service  
Anchorage Fish and Wildlife Conservation Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Branch Chief:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Branch Chief - Fisheries of the Anchorage Fish and Wildlife Conservation Office (Branch Chief) to issue emergency special actions when necessary to ensure the conservation of a healthy fish population, to continue subsistence uses of fish, for the continued viability of a fish population, or for public safety reasons. This delegation only applies to Federal public waters subject to the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII in the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas.

It is the intent of the Board that Federal subsistence fisheries management by Federal officials be coordinated, prior to implementation, with Regional Advisory Council (Council) representatives, the Office of Subsistence Management (OSM), and the Alaska Department of Fish and Game (ADF&G), to the extent possible. The OSM will be used by managers to facilitate communication of actions and to ensure proposed actions are technically and administratively aligned with legal mandates and policies. Federal managers are expected to cooperate with managers from the State and other Federal agencies, the Council Chair(s), and applicable Council members to minimize disruption to resource users and existing agency programs, consistent with the need for emergency special action.

**DELEGATION OF AUTHORITY**

**1. Delegation:** The Branch Chief is hereby delegated authority to issue emergency special actions affecting fisheries in Federal public waters as outlined under the **Scope of Delegation** below. Although a public hearing is not required for emergency special actions, if deemed necessary by you, then a public hearing on the emergency special action is recommended. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.

**2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: “The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board.”

**3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(a) and 50 CFR 100.19(a). Such an emergency action may not exceed 60 days, and may not be extended.

This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries.

This delegation also permits you to close and re-open Federal public waters to nonsubsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve healthy populations of fish or to ensure the continuation of subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations or requests for special actions greater than 60 days, shall be directed to the Board.

The Federal public waters subject to this delegated authority are those within the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). You will coordinate all local fishery decisions with all affected Federal land managers.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Review of Proposed Special Actions:** You will use the following guidelines to determine the appropriate course of action when reviewing proposed special actions.

- a) Does the proposed special action fall within the geographic and regulatory scope of delegation?
- b) Have you communicated with the OSM to ensure the emergency special action is aligned with Federal subsistence regulations and policy?
- c) Does the proposed action need to be implemented immediately as an emergency special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the next regulatory cycle?
- d) Does the supporting information in the proposed special action substantiate the need for the action?



- e) Are the assertions in the proposed special action confirmed by available current biological information and/or by affected subsistence users?
- f) Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?
- g) Is the proposed special action likely to achieve the expected results?
- h) Have the perspectives of the Chair or alternate of the affected Council(s), OSM, and affected State and Federal managers been fully considered in the review of the proposed special action?
- i) Have the potential impacts of the proposed special action on all affected subsistence users and non-Federally qualified users within the drainage been considered?
- j) Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?
- k) After evaluating all information and weighing the merits of the special action against other actions, including no action, is the proposed emergency special action reasonable, rational, and responsible?

**6. Guidelines for Delegation:** You will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

You will provide subsistence users in the region a local point of contact about Federal subsistence fishery issues and regulations and facilitate a local liaison with State managers and other user groups. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. You will also establish meaningful and timely opportunities for government-to-government consultation related to pre-season and post-season management actions as established in the Board's Government to Government Tribal Consultation Policy (Federal Subsistence Board Government to Government Tribal Consultation Policy 2012).

You will review emergency special action requests or situations that may require an emergency special action and all supporting information to determine (1) consistency with 36 CFR 242.19 and 50 CFR 100.19, (2) if the request/situation falls within the scope of your delegated authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action may be on potentially affected subsistence uses and nonsubsistence uses. Requests not within your delegated authority will be forwarded to the Board for consideration.

You will maintain a record of all special action requests and justification of your decisions. A copy of this record will be provided to the Administrative Records Specialist at OSM no later than sixty days after development of the document.

You will immediately notify the Board through the Assistant Regional Director for the OSM, and coordinate with Chair or alternate of the affected Council(s), local ADF&G managers, and other affected Federal conservation unit managers concerning emergency special actions being considered.

If the timing of a regularly scheduled meeting of the affected Council(s) permits without incurring undue delay, you may seek Council recommendations on the proposed emergency special action.

You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify Council representatives, the public, OSM, affected State and Federal managers, and law enforcement personnel. If an action is to supersede a State action not yet in effect, the decision will be communicated to Council representatives, the public, OSM, and State and Federal managers at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponents of the request immediately.


You may defer an emergency special action request, otherwise covered by the delegation of authority, to the Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. These options should be exercised judiciously and only when sufficient time allows. Such deferrals should not be considered when immediate management actions are necessary for conservation purposes. The Board may determine that an emergency special action request may best be handled by the Board, subsequently rescinding the delegated authority for the specific action only.

**7. Reporting:** You must provide to the Board, through the Assistant Regional Director for the OSM, a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15. A summary of emergency special action requests and your resultant actions must be provided to the coordinator of the appropriate Council(s) at the end of the calendar year for presentation during regularly scheduled Council meetings.

**8. Support Services:** Administrative support for your local Federal subsistence fisheries management activities will be provided by the Office of Subsistence Management.

Should you have any questions about this delegation of authority, please feel free to contact the Assistant Regional Director for the OSM at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,



Anthony Christianson  
Chair

Enclosures: Maps of the Bristol Bay, Aleutian Islands, and Alaska Peninsula/Chignik areas

cc: Federal Subsistence Board

Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Policy Coordinator, Office of Subsistence Management  
Fisheries Division Supervisor, Office of Subsistence Management  
Chair, Bristol Bay Subsistence Regional Advisory Council  
Chair, Kodiak/Aleutians Subsistence Regional Advisory Council  
Superintendent, Lake Clark/Katmai National Parks and Preserve  
Manager, Togiak National Wildlife Refuge  
Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex  
Manager, Izembek National Wildlife Refuge  
Manager, Alaska Maritime National Wildlife Refuge  
Assistant Regional Director, Law Enforcement, U.S. Fish and Wildlife Service (Region 7)  
Commissioner, Alaska Department of Fish and Game  
Interagency Staff Committee  
Administrative Record

| <b>FCR21-11 Executive Summary</b>  |  |
|--|--|
| <b>General Description</b>   | FCR21-11 is a routine review of a Federal closure to salmon fishing at McLees Lake drainage in the Aleutian Islands Area.  |
| <b>Current Regulation</b>  | <p>§ __.27(e)(6) <i>Aleutian Islands Area</i></p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(iv) You may not subsistence fish for salmon in the following waters:</i></p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(D) Waters of McLees Lake and its tributaries and outlet stream</i></p> <p style="text-align: center;">***</p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |

**FEDERAL FISHERIES DRAFT CLOSURE REVIEW  
FCR21-11**

**Issue**

FCR21-11 is a routine review of a Federal closure to salmon fishing at McLees Lake drainage in the Aleutian Islands Area. 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:** McLees Lake drainage—Salmon

**Current Federal Regulation**

§ \_\_\_\_.27(e)(6) *Aleutian Islands Area*

\*\*\*

(iv) *You may not subsistence fish for salmon in the following waters:*

\*\*\*

(D) *Waters of McLees Lake and its tributaries and outlet stream*

\*\*\*

**Relevant Federal Regulations**

§ \_\_\_\_.25 *Subsistence taking of fish, wildlife, and shellfish: general regulations*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

§ \_\_\_\_.27 *Subsistence Taking of Fish*

\*\*\*

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

\*\*\*

(10) *You may not take fish for subsistence uses within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction, unless otherwise indicated.*

\*\*\*

*(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.*

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*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

§ \_\_\_\_.27(e)(6) Aleutian Islands Area

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*(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.*

\*\*\*

*(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.*

*(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.*

*(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.*

*(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.*

Note: In the Unalaska District, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (**Appendix 1**, see 5 AAC 01.380. Subsistence fishing permits).

**Closure Dates:** Year-round

## **Current State Regulation**

### Subsistence Regulations

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

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*(e) Fishing for, taking or molesting any fish by any means, or for any purpose, is prohibited within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.*

\*\*\*

#### *Aleutian Islands Area*

#### *5 AAC 01.370. Lawful gear and gear specifications*

*(a) Salmon may be taken by seine and gillnet, or with gear specified on a subsistence fishing permit.*

#### *5 AAC 01.375 Waters closed to subsistence fishing*

*The following waters are closed to subsistence fishing for salmon:*

\*\*\*

*(5) waters of McLees Lake and its tributaries and its outlet stream; in the waters of Reese Bay from July 1 through July 9, salmon may not be taken within 500 yards of the outlet stream terminus to McLees Lake;*

\*\*\*

#### *5 AAC 01.380. Subsistence fishing permits*

*(a) Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(b) No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts,*

*(1) the holder of a subsistence salmon fishing permit may take no more than 25 salmon, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay; in this section, "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53\_ 52.64' N. lat., 166\_ 32.30' W. long., to a point on the Unalaska Bay shore at 53\_ 52.68' N. lat., 166\_ 30.91' W. long; and (c) A record of subsistence-caught fish must be kept on the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.*

\*\*\*

### Sport Regulations

#### *5 AAC 75.050 Waters closed to sport fishing*

*(a) The waters within 300 feet of a fish weir or fish ladder are closed to sport fishing, unless a lesser distance is indicated by ADF&G regulatory markers.*

*(b) It is unlawful to cast, drift, or place by any means a hook, bait, artificial lure, or artificial fly into waters closed to sport fishing.*

#### *Alaska Peninsula and Aleutian Islands Area*

#### *5 AAC 65.020. General provisions for seasons and bag, possession, annual, and size limits for the Alaska Peninsula and Aleutian Islands Area*

*Except as otherwise provided in 5 AAC 65.022, 5 AAC 65.051, or by an emergency order issued under AS 16.05.060, the seasons and bag, possession, annual, and size limits for finfish and shellfish in the Alaska Peninsula and Aleutian Islands Area are as follows:*

*(1) king salmon:*



*(A) in fresh waters: may be taken only from January 1 through July 25, except that king salmon may be taken in the Chignik River only from January 1 through August 9, and as follows:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five fish; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; no annual limit;*

*(B) in salt waters: may be taken from January 1 through December 31; bag and possession limit of two fish; no size limit; no annual limit;*

*(2) salmon, other than king salmon: may be taken from January 1 through December 31, as follows:*

*(A) 20 inches or greater in length; bag limit of five fish and a possession limit of 10 fish;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish;*

**Regulatory Year Initiated:** 2001

**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 comprise McLees Lake, its outlet stream and tributaries, which are within and adjacent to the exterior boundaries of the Alaska Maritime National Wildlife Refuge (**Figure 1**).



**Figure 1.** McLees Lake waters closed to salmon fishing under Federal subsistence regulation.

**Customary and Traditional Use Determination**

Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for all fish in the Aleutian Islands Area.

## **Regulatory History**

In 1999, the Federal Subsistence Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries regulations, (64 Fed. Reg. 5; 1284 [January 8, 1999]). However, this closure was not adopted until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

## **Closure Last Reviewed**

A review was initiated during the 2021 fish proposal cycle and was recommended to be deferred by the Kodiak Aleutian Subsistence Regional Advisory Council to allow for additional feedback from the rural public in affected communities. The Board subsequently deferred the review until the 2023 fisheries regulatory cycle.

## **Justification for Original Closure**

In 1999, the Federal Subsistence Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries regulations, (64 Fed. Reg. 5; 1284 [January 8, 1999]).

## **Council Recommendation for Original Closure**

None

## **State Recommendation for Original Closure**

None

## **Biological Background**

Estimates of escapement have been conducted since 1974, starting with aerial surveys and switching to a weir at the outlet of the lake in 2001 (Lipka and Fox 2017). From 2001 to 2011, various offices of the US Fish and Wildlife Service (USFWS) in partnership with the Qawalangin Tribe operated a weir to enumerate McLees Lake escapement. ADF&G continued weir operations from 2012 to 2017, in cooperation with the Qawalangin Tribe. The weir did not operate during the 2018 and 2019 seasons due to lack of funding, but began operations again in 2020 and is still operational. The Unalaska Native Fishermen's Association (UNFA), the Ounalashka Corporation, the City of Unalaska, and the Qawalangin Tribe of Unalaska provided funding to contract Aleutian Aerial LLC to fly small unmanned aerial system (i.e., drone) surveys to capture sockeye salmon abundance in McLees lakes and other locations starting in 2020 (Fox et al. 2022). Funds were awarded through the Alaska Sustainable Salmon Fund (AKSSF) to continue drone work in 2022 and 2023. This system produces mainly Sockeye Salmon, but also sees occasional steelhead trout (Johnson and Blossom 2018). Sockeye Salmon escapements have ranged from a high of 101,793 Sockeye Salmon (2002) to a low of 5,037 (2020), with a recent 5-year

average (2015-2017, 2020, 2021) of 18,914 fish (Hildreth and Finkle 2013, Lipka and Fox 2017, Fox et al. 2022).

### **Cultural Knowledge and Traditional Practices**

Contemporary subsistence patterns in Unalaska are primarily derived from the Unangan (also known as Aleut) cultural traditions of harvesting a vast array of resources available in the tempestuous, temperate and extremely diverse maritime environment. Marine mammals, multiple types of fish, crab, mollusks, birds, plants, berries and driftwood provided the means for Unangan people and culture to flourish on the islands for at least nine thousand years (Gillespie 2018:5). Just two examples of Unangan science and engineering derived from traditional ecological knowledge include the invention of kayaks and the creation of watertight baskets woven from beach grasses. Some Unangan traditions were modified by Russians during the colonial period but mostly, Russians adapted to Unangan patterns of subsistence and survival. Unangan subsistence and cultural traditions are practiced in contemporary times; this is critically important to the maintenance of the cultural identity of the Unangan people of Unalaska. Unalaska/Dutch Harbor has become one of the most productive commercial fishing ports in the world and has attracted people from all over the world. Unangan traditions and traditional knowledge continue to influence those who are drawn to the rich maritime environment.

The city of Unalaska is situated on Unalaska Island and is the largest city in the Aleutian Islands. The Port of Dutch Harbor is situated on adjacent Amaknak Island and is connected to Unalaska by a strip of road bridging the South Channel. This port city supports one of the largest commercial fisheries in the world. According to the 2020 United States Census, Unalaska has a population of 4,254 people. Considering the industrial scale of the fisheries operations there, many of the “residents” as recorded in the 2020 census may be seasonal workers that do not claim permanent Alaskan residency. As a context for assessing the actual number of permanent residents in Unalaska, in “Subsistence Fisheries Harvest Assessment and Traditional Ecological Knowledge, Lower Alaska Peninsula and Aleutian Islands,” Davis lists the population of Unalaska in 2000 as 2,091 people, less than half that of the 2000 census (4,283) (Davis 2005). Researchers specifically excluded any group quarter residents.

The most recent comprehensive subsistence surveys conducted by the ADF&G, Division of Subsistence were completed in 1993 (Scarborough and Fall 1997). During the study year, permanent residents of Unalaska harvested approximately 195 lbs. of subsistence foods per person, of which approximately 28%, or 54 lbs. per person, was salmon. Harvest methods for the salmon caught that year were “subsistence methods” (primarily nets, 62% of the salmon harvest), rod and reel (34% of the salmon harvest), and removal from commercial harvests (4% of the salmon harvest) (Scarborough and Fall 1997).

In 2013, Reedy conducted a partial house-to-house salmon harvest survey in Unalaska and made these observations:

*Many people go beach seining at Front Beach in Unalaska Bay for salmon in the summer months. The culture camp seines for pinks as well. Pink salmon are the most abundant on the island but not the most desired fish. Their eggs are harvested and can*

*be stored frozen. Sockeye is the most desired fish but abundance is down and this is blamed by locals on road construction, culverts, sediment runoff, and siltation ruining spawning beds. . . . A high school class runs the local coho salmon hatchery in the Iliuliuk River led by the science teacher, and the students are stewards of the river and its fish. Locals make lox with the salmon. Silvers are often smoked. Many keep sockeye heads for soup (Reedy 2016: 25).*

## **Harvest History**

There is an active State managed subsistence fishery targeting the Sockeye Salmon returning to McLees Lake, which takes place in the marine waters of Reese Bay near the lake outlet. Subsistence harvests of Sockeye Salmon returning through Reese Bay to McLees Lake are typically taken by set gillnet in Reese Bay during the months of June and July. Participation requires a State subsistence permit, and estimates of harvests for this fishery between 1985 and 2020 have ranged from 436 to 4,694 fish annually (Fox et al. 2022). There were 23 permits issued for the first year of this fishery in 1985, and a high of 129 permits issued in 2013. This fishery is often the primary Unalaska Island subsistence salmon fishery, providing 45-94% of the annual Sockeye Salmon harvest in this community (Fox et al. 2022).

## **Effects**

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), "...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over taking on such lands of fish and wildlife for other purposes." There are currently nonsubsistence uses of salmon permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon in the McLees Lake drainage, thereby providing priority consumptive use to Federally qualified subsistence users.

If the closure is rescinded, Federal subsistence regulations for the Aleutian Islands Area would apply which could lead to overharvest and conservation concerns. To conserve fish populations, the Federal inseason manager could issue a special action to set provisions for the fishery, such as stipulating gear types such as rod and reel only and setting conservative harvest limits.

## **OSM PRELIMINARY 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)(6) *Aleutian Islands Area*

\*\*\*

(iv) *You may not subsistence fish for salmon in the following waters:*

\*\*\*

~~(D) *Waters of McLees Lake and its tributaries and outlet stream*~~

\*\*\*

## **Justification**

The McLees Lake drainage is currently closed to the harvest of salmon by Federally qualified subsistence users but remains open to State sport fishing and there are State subsistence salmon opportunities in adjacent marine waters. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries (**Appendix 2**). The in-season manager can use this authority to manage the fishery in the short term. A proposal outlining desired parameters for this fishery may be submitted during the next fisheries cycle so they can be put into regulation.

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**SELECTED SUBSISTENCE REGULATIONS**

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Unalaska Area.

**5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN:** 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay. "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53° 52.64' N. lat., 166° 32.30' W. long., to a point on the Unalaska Bay shore at 53° 52.68' N. lat., 166° 30.91' W. long. Additional household permits are available by request from the local ADF&G representative.

**5 AAC 01.375. CLOSED WATERS: (see map below)**

- a. The waters of Unalaska Lake (at the city of Unalaska), its tributaries and the outlet stream, and all waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long. and north of a line from a point south of Agnes Beach at 53° 52.28' N. lat., 166° 32.68' W. long. to a point at 53° 52.35' N. lat., 166° 32.95' W. long. on Amaknak Island.
- b. Within Unalaska Bay (south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point): **all waters are closed to subsistence salmon fishing within the waters of all streams, lakes, and within 250 yards of any anadromous stream outlet** (except for the vicinity of Unalaska Lake as described above in (a) above).
- c. At Reese Bay (Wislow), no subsistence salmon fishing is allowed in the waters of McLees Lake and its drainages or tributaries. **No subsistence salmon fishing is allowed within 500 yards of the terminus of the McLees Lake outlet during July 1 through July 9.**

**ADDITIONAL RESTRICTIONS:**

- 1. This permit must be carried by permit holder while harvesting and transporting subsistence caught salmon and must be readily available for inspection.
- 2. The number of subsistence salmon, the species, the location of the catch, and the date of catch must be recorded on this permit immediately after harvest. Maintain a consistent tally of your catch on the permit. This includes fish that are given away or shared.
- 3. Subsistence fisherman must be in attendance of their net at all times that it is fished.
- 4. In the Unalaska District, subsistence net may be fished ONLY from 6:00 AM through 9:00 PM daily.
- 5. Only household members listed on the permit may assist in the harvest of subsistence salmon.
- 6. Salmon may be taken by seine or gillnet. Gillnets are restricted to 50 fathoms total length. Each gillnet must have a buoy on each end. The name and address of the operator must be plainly and legibly inscribed on each buoy.
- 7. From June 1 through September 15, a salmon seine vessel may not be used to take salmon for subsistence use 24 hours before or 12 hours after an open commercial fishing period within an area open to commercial salmon fishing.
- 8. Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.
- 9. No more than half the width of a stream or its mouth may be obstructed by a net. This restriction includes blocking the stream mouth while "roundhauling."



For questions contact Fish and Game office: Dutch Harbor (907) 581-1239; Kodiak (907) 486-1882.

## APPENDIX 2

### DELEGATION OF AUTHORITY LETTER TO THE INSEASON MANAGER OF THE SOUTHWEST ALASKA AREA

Branch Chief - Fisheries  
U.S. Fish and Wildlife Service  
Anchorage Fish and Wildlife Conservation Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Branch Chief:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Branch Chief - Fisheries of the Anchorage Fish and Wildlife Conservation Office (Branch Chief) to issue emergency special actions when necessary to ensure the conservation of a healthy fish population, to continue subsistence uses of fish, for the continued viability of a fish population, or for public safety reasons. This delegation only applies to Federal public waters subject to the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII in the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas.

It is the intent of the Board that Federal subsistence fisheries management by Federal officials be coordinated, prior to implementation, with Regional Advisory Council (Council) representatives, the Office of Subsistence Management (OSM), and the Alaska Department of Fish and Game (ADF&G), to the extent possible. The OSM will be used by managers to facilitate communication of actions and to ensure proposed actions are technically and administratively aligned with legal mandates and policies. Federal managers are expected to cooperate with managers from the State and other Federal agencies, the Council Chair(s), and applicable Council members to minimize disruption to resource users and existing agency programs, consistent with the need for emergency special action.

### DELEGATION OF AUTHORITY

- 1. Delegation:** The Branch Chief is hereby delegated authority to issue emergency special actions affecting fisheries in Federal public waters as outlined under the **Scope of Delegation** below. Although a public hearing is not required for emergency special actions, if deemed necessary by you, then a public hearing on the emergency special action is recommended. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.
- 2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: "The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board."
- 3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(a) and 50 CFR 100.19(a). Such an emergency action may not exceed 60 days, and may not be extended.

This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries.

This delegation also permits you to close and re-open Federal public waters to nonsubsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve healthy populations of fish or to ensure the continuation of subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations or requests for special actions greater than 60 days, shall be directed to the Board.

The Federal public waters subject to this delegated authority are those within the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). You will coordinate all local fishery decisions with all affected Federal land managers.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Review of Proposed Special Actions:** You will use the following guidelines to determine the appropriate course of action when reviewing proposed special actions.

- a) Does the proposed special action fall within the geographic and regulatory scope of delegation?
- b) Have you communicated with the OSM to ensure the emergency special action is aligned with Federal subsistence regulations and policy?
- c) Does the proposed action need to be implemented immediately as an emergency special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the next regulatory cycle?
- d) Does the supporting information in the proposed special action substantiate the need for the action?
- e) Are the assertions in the proposed special action confirmed by available current biological information and/or by affected subsistence users?
- f) Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?
- g) Is the proposed special action likely to achieve the expected results?
- h) Have the perspectives of the Chair or alternate of the affected Council(s), OSM, and affected State and Federal managers been fully considered in the review of the proposed special action?
- i) Have the potential impacts of the proposed special action on all affected subsistence users and non-Federally qualified users within the drainage been considered?

j) Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?

k) After evaluating all information and weighing the merits of the special action against other actions, including no action, is the proposed emergency special action reasonable, rational, and responsible?

**6. Guidelines for Delegation:** You will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

You will provide subsistence users in the region a local point of contact about Federal subsistence fishery issues and regulations and facilitate a local liaison with State managers and other user groups. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. You will also establish meaningful and timely opportunities for government-to-government consultation related to pre-season and post-season management actions as established in the Board's Government to Government Tribal Consultation Policy (Federal Subsistence Board Government to Government Tribal Consultation Policy 2012).

You will review emergency special action requests or situations that may require an emergency special action and all supporting information to determine (1) consistency with 36 CFR 242.19 and 50 CFR 100.19, (2) if the request/situation falls within the scope of your delegated authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action may be on potentially affected subsistence uses and nonsubsistence uses. Requests not within your delegated authority will be forwarded to the Board for consideration.

You will maintain a record of all special action requests and justification of your decisions. A copy of this record will be provided to the Administrative Records Specialist at OSM no later than sixty days after development of the document.

You will immediately notify the Board through the Assistant Regional Director for the OSM, and coordinate with Chair or alternate of the affected Council(s), local ADF&G managers, and other affected Federal conservation unit managers concerning emergency special actions being considered.

If the timing of a regularly scheduled meeting of the affected Council(s) permits without incurring undue delay, you may seek Council recommendations on the proposed emergency special action.

You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify Council representatives, the public, OSM, affected State and Federal managers, and law enforcement personnel. If an action is to supersede a State action not yet in effect, the decision will be communicated to Council representatives, the public, OSM, and State and Federal managers at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponents of the request immediately.

You may defer an emergency special action request, otherwise covered by the delegation of authority, to the Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. These options should be exercised judiciously and only when sufficient time allows. Such deferrals should not be considered

when immediate management actions are necessary for conservation purposes. The Board may determine that an emergency special action request may best be handled by the Board, subsequently rescinding the delegated authority for the specific action only.

**7. Reporting:** You must provide to the Board, through the Assistant Regional Director for the OSM, a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15. A summary of emergency special action requests and your resultant actions must be provided to the coordinator of the appropriate Council(s) at the end of the calendar year for presentation during regularly scheduled Council meetings.

**8. Support Services:** Administrative support for your local Federal subsistence fisheries management activities will be provided by the Office of Subsistence Management.

Should you have any questions about this delegation of authority, please feel free to contact the Assistant Regional Director for the OSM at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,



Anthony Christianson  
Chair

Enclosures: Maps of the Bristol Bay, Aleutian Islands, and Alaska Peninsula/Chignik areas

cc: Federal Subsistence Board

Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Policy Coordinator, Office of Subsistence Management  
Fisheries Division Supervisor, Office of Subsistence Management  
Chair, Bristol Bay Subsistence Regional Advisory Council  
Chair, Kodiak/Aleutians Subsistence Regional Advisory Council  
Superintendent, Lake Clark/Katmai National Parks and Preserve  
Manager, Togiak National Wildlife Refuge  
Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex  
Manager, Izembek National Wildlife Refuge  
Manager, Alaska Maritime National Wildlife Refuge  
Assistant Regional Director, Law Enforcement, U.S. Fish and Wildlife Service (Region 7)  
Commissioner, Alaska Department of Fish and Game  
Interagency Staff Committee  
Administrative Record

| <b>F CR23-12 Executive Summary</b>   |  |
|--|--|
| <b>General Description</b>   | F CR23-12 is a routine review of a Federal closure to salmon fishing in all freshwaters on Adak and Kagalaska Island.  |
| <b>Current Regulation</b>  | <p>§ __.27(e)(6) <i>Aleutian Islands Area</i></p> <p>***</p> <p>(iv) <i>You may not subsistence fish for salmon in the following waters:</i></p> <p>***</p> <p>(E) <i>All fresh water on Adak Island and Kagalaska Island in the Adak District.</i></p> <p>***</p> |
| <b>OSM Preliminary Conclusion</b>  | <b>Rescind</b>   |
| <b>Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation</b> |  |
| <b>Interagency Staff Committee Comments</b>                                  |  |
| <b>ADF&amp;G Comments</b>  |  |
| <b>Written Public Comments</b>   | <b>None</b>  |

**FEDERAL FISHERIES DRAFT CLOSURE REVIEW  
FCR23-12**

**Issue**

FCR23-12 is a routine review of a Federal closure to salmon fishing in all freshwaters on Adak and Kagalaska Island. 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:** Adak and Kagalaska Island freshwaters—Salmon

**Current Federal Regulation**

§ \_\_\_\_.27(e)(6) *Aleutian Islands Area*

\*\*\*

(iv) *You may not subsistence fish for salmon in the following waters:*

\*\*\*

(E) *All fresh water on Adak Island and Kagalaska Island in the Adak District.*

\*\*\*

**Relevant Federal Regulations**

§ \_\_\_\_.25 *Subsistence taking of fish, wildlife, and shellfish: general regulations.*

(a) *Definitions. The following definitions apply to all regulations contained in this part:*

*Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.*

§ \_\_\_\_.27 *Subsistence taking of fish*

\*\*\*

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

\*\*\*

*(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.*

\*\*\*

*(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

*§ \_\_.27(e)(6) Aleutian Islands Area*

\*\*\*

*(iii) In the Adak, Akutan, Atka-Amlia, and Umnak Districts, you may take salmon at any time.*

\*\*\*

*(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.*

\*\*\*

*(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.*

*(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.*



Note: In the Adak District, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (see 5 AAC 01.380. Subsistence fishing permits).

**Closure Dates:** Year-round

### **Current State Regulation**

#### Subsistence Regulations

##### **Aleutian Islands Area**

*5 AAC 01.375 Waters closed to subsistence fishing*

*The following waters are closed to subsistence fishing for salmon:*

\*\*\*

*(6) the following waters of and around Adak Island and Kagalaska Island in the Adak District:*

*(A) all freshwater; and*

*(B) all salt waters within 100 yards of a stream terminus.*

### **Relevant State Regulations**

#### Subsistence Regulations

##### **Aleutians Island Area**

*5 AAC 01.370. Lawful gear and gear specifications*

*(a) Salmon may be taken by seine and gillnet, or with gear specified on a subsistence fishing permit.*

*5 AAC 01.380. Subsistence fishing permits*

*(a) Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

*(b) No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts,*

\*\*\*

*(c) A record of subsistence-caught fish must be kept on the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.*

Sport Regulations

**Alaska Peninsula and Aleutian Islands Area**

5 AAC 65.020. *General provisions for seasons and bag, possession, annual, and size limits for the Alaska Peninsula and Aleutian Islands Area*

*Except as otherwise provided in 5 AAC 65.022, 5 AAC 65.051, or by an emergency order issued under AS 16.05.060, the seasons and bag, possession, annual, and size limits for finfish and shellfish in the Alaska Peninsula and Aleutian Islands Area are as follows:*

*(1) king salmon:*

*(A) in fresh waters: may be taken only from January 1 through July 25, except that king salmon may be taken in the Chignik River only from January 1 through August 9, and as follows:*

*(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five fish; a harvest record is required as specified in 5 AAC 75.006;*

*(ii) less than 20 inches in length; bag and possession limit of 10 fish; no annual limit;*

\*\*\*

*(2) salmon, other than king salmon: may be taken from January 1 through December 31, as follows:*

*(A) 20 inches or greater in length; bag limit of five fish and a possession limit of 10 fish;*

*(B) less than 20 inches in length; bag and possession limit of 10 fish;*

**Regulatory Year Initiated:** 1990

**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 freshwaters on Adak and Kagalaska comprise all freshwaters within and adjacent to the exterior boundaries of Alaska Maritime Wildlife Refuge (**Figure 1**).



**Figure 1.** Map of Adak and Kagalaska Islands with Federal public lands outlined.

**Customary and Traditional Use Determination**

Residents of the Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for salmon in the Aleutian Islands Area.

**Regulatory History**

In 1990, the Federal Subsistence Management Program adopted temporary subsistence management regulations for public lands in Alaska, which included this closure, to minimize disruption to the State’s continuing fish and game management, because of the uncertainty over the resumption of State management of subsistence, yet still fulfill the requirements of the Title VIII of ANILCA (55 Fed. Reg. 126; 27125, 27155 [June 29, 1990]).

**Closure last reviewed**

There have been no previous reviews of this closure.

**Justification for Original Closure**

In 1997, the closure was in the proposed rule for the management of fish in navigable waters, in addition to non-navigable waters. The justification was that “The proposed wording of these sections is based on the existing State subsistence regulations with some exceptions” (62 Fed. Reg. 242, 66220 [December 17, 1997]). It was adopted as final in 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

**Council Recommendation for Original Closure**

None

**State Recommendation for Original Closure**

None

**Biological Background**

There are some Federal public freshwaters of interest on Adak and Kagalaska Islands. Notable ones include drainages in Hidden Bay on Adak Island, and Quail Bay and Galas Point on Kagalaska Island. Anadromous species present in these drainages, according to the ADF&G Anadromous Waters Catalog, are displayed in **Table 1** (Johnson and Blossom 2021). None of the fish populations in these freshwaters are monitored so there is little abundance information available.

**Table 1.** Primary Federal public freshwaters on Adak and Kagalaska Islands

| <b>Drainage</b> | <b>Species present</b>                  |
|-----------------|---|
| Hidden Bay      | Chum, Coho, Pink, Sockeye, Dolly Varden |
| Quail Bay       | Pink, Sockeye                           |
| Galas Point     | Sockeye, Dolly Varden                   |

**Cultural Background**

The Aleutian Islands and Pribilof Islands are located west of the Alaska Peninsula and are the homelands of the Unangan, or Aleut, peoples. As of 2021, there are an estimated 6,754 Alaska Native, Euro-

American, Asian, African American, and Native Hawaiian or Pacific Islander people living in eight communities (**Table 2**). It is common for residents in the region to recognize a mixed Aleut, Russian, Scandinavian, and/or European heritage (Reedy-Maschner 2010). Archaeological and ethnographic evidence indicates that people have been practicing subsistence in this region for at least 10,000 years. Many residents across the region continue to live a subsistence way of life; subsistence and commercial fishing “allows the Aleut to maintain individual identity, social relationships, and collective identity” (Reedy-Maschner 2010: 242). Key subsistence resources have included salmon, halibut, cod, sculpins, greenling, cetaceans, sea otter, seals, sealions, shellfish, shorebirds, and waterfowl (Dumond and Bland 1995, Byers et al. 2011, Krylovich et al. 2019).

The Aleutian and Pribilof Islands have a long history of tumultuous cultural and socio-economic change (Reedy-Maschner 2010). The mid-1700s started a period marked by mass disease, death, and social reorganization following Russian and European contact. Populations of Unangan people were forced to translocate to the Pribilof Islands to sustain the fur seal industry, which continued with U.S. support after the purchase of Alaska in 1867. By the early 1900s, whaling and commercial cod, halibut, and salmon fisheries were established (Reedy-Maschner and Maschner 2012). The western Aleutian Islands were occupied by the Japanese during World War II, at which point the U.S. government forced many people from the eastern Aleutian Islands to evacuate to internment camps in southeast Alaska. Internment resulted in a significant disease and death (Kohlhoff 1999 in Reedy-Maschner and Maschner 2012). Insufficient Federal support to rebuild after internment was later exacerbated by U.S. withdrawal of support for and collapse of the fur seal industry in the mid-1980s. Today, commercial fisheries in the region—particularly on Akutan, Unalaska, and the Pribilof Islands—are exceptionally productive and bring in many non-local employees who primarily reside at on-site housing (Reedy-Maschner 2010, Schmidt and Berman 2018). As of 2010, Akutan Island was home to the largest seafood processing plant in the U.S. (Sepez and Hunn 2010).

Subsistence fishing is central to Aleut identity, culture, and economy. Ethnohistorical data demonstrates that traditional ecological knowledge about subsistence resources, trophic relationships, and climate has been passed down over generations (Sepez and Hunn 2010, Maschner et al. 2014). Salmon, halibut, and other finfish are all recognized as being customarily or traditionally taken or used for subsistence throughout the Aleutian Islands and Pribilof Islands (Fall et al. 2020). While salmon is the most important resource in the Aleutian Islands, the primary subsistence resources in the Pribilof Islands include seals, sea lions, walrus and whales, reindeer, and nonsalmon fish (Veltre and Veltre 1981). Throughout the region, harvested resources are shared throughout the community and were historically used as trade items among residents to gain social status and prestige (Reedy-Maschner 2010). Community-based research in the eastern Aleutians highlights that “subsistence is an institution for many households and is enacted through vast sharing networks for family and friends” (Reedy-Maschner and Maschner 2012: 14). Reports from Unalaska underscore the cultural importance of sharing subsistence foods, with 71.4% of households receiving shared salmon and 52.5% of households gifting harvested salmon to others (Scarborough and Fall 1997).

Subsistence remains a part of people’s identity “rooted in multi-generational attachments to the local land and seascapes.” Household surveys conducted on Akutan in 2008 indicate that salmon comprised

45% of total subsistence harvest, followed by nonsalmon fish (25%), marine invertebrates (10%), marine mammals (8%), and wild plants, birds, eggs, and land mammals (12%) (Fall et al. 2012). Similar harvest patterns were recorded in Unalaska, with salmon as the primary resource by weight, followed by nonsalmon fish (primarily halibut), marine invertebrates (primarily crab), then game (including caribou, deer, harbor seal, and Steller sea lion) (Scarborough and Fall 1997). Survey data from 2018 indicate that 2,563 salmon (72% Sockeye, 19% Coho, 6% Pink, 3% Chum, and 1% Chinook) were harvested for subsistence in the Unalaska District in 2018, primarily from Reese Bay (Brown et al. 2021). Most residents harvest subsistence resources locally. Sepez and Hunn (2010) report that in Akutan, most people are limiting their travel to < 10 miles from their village or approximately one hour by boat. Thus, subsistence resources of each island in the region are of critical importance to its residents.

Adak Island is centrally located among the Aleutian Islands. Closure of the Naval Air Base in 1997 resulted in a population decline from almost 10,000 people to 70-100 year-round residents. The Board therefore changed the status of Adak from nonrural to rural in 2006 (FR 25688, May 7, 2007). In this district, subsistence salmon harvest consists mainly of Sockeye Salmon harvested at Quail Bay and Galas Point on Kagalaska Island and at Finger Bay and Airport Creek on Adak Island (Fox and Whiteside 2020). Sockeye Salmon are also harvested at Hidden Bay, and a few Pink and Coho Salmon are also harvested on the north side of Adak Island (ADF&G n.d.). In recent years, Sockeye Salmon have also been harvested from Lake Andrew on the north side of the island (KARAC 2021). However, Adak council member Richard Koso reports that salmon fisheries on Kagalaska Island are among the most critical to Adak residents (KARAC 2022).

Discussions at Regional Advisory Council meetings indicate that people on Adak continue to rely on salmon and halibut subsistence fisheries. Like elsewhere in the Aleutians (Reedy-Maschner 2010), lack of boat access and lack of money for fuel and supplies constrain Adak people's ability to harvest salmon (KARAC 2019). Many people reportedly do not apply for a subsistence permits because the permit limit of 25 salmon per subsistence user is "almost not enough to even run out because it cost so much for fuel... it's a four-hour round-trip run on the skiff to get [salmon] so it's quite costly..." (KARAC 2019: 187). Adak council member Richard Koso reported that community members with boats would historically "bring in a couple hundred fish and they give them to people in town that can't get out," but are unable to do so with the existing subsistence harvest limits (KARAC 2019: 187). These discussions suggest that existing harvest limits and permitting processes on Adak, which are much lower than the limit of 250 salmon per subsistence user in nearby Cold Bay, impede cultural practices of resource sharing.

In 2018, 460 Sockeye Salmon were reported harvested for subsistence on Adak (Fox and Whiteside 2020). Estimates of Adak District subsistence use from 1998-2013 indicate a small annual harvest, averaging 76 salmon harvested/year, of which 45 are Sockeye, 27 are Pink, and four are Coho (Fox and Whiteside 2020). However, the Kodiak-Aleutians Area Planning Workgroup suggested that underreporting is likely an issue in this region, both due to confusion regarding the 25 salmon/permit limit and due to reporting subsistence resources as sportfishing harvest (OSM 2006).

**Table 2.** Estimated population of Aleutian Island Area communities, based on 2020 census data (Department of Labor and Workforce Development, 2021).

| <b>Community</b>           | <b>2021 Population Estimate</b> |
|----------------------------|---------------------------------|
| Akutan                     | 1,588                           |
| Unalaska Dutch Harbor      | 4,195                           |
| Nikolski                   | 42                              |
| Atka                       | 59                              |
| Adak                       | 179                             |
| Saint Paul                 | 391                             |
| Saint George               | 68                              |
| Eareckson Station (Shemya) | 232                             |
| <b>Total</b>               | <b>6,754</b>                    |

### **Harvest History**

Subsistence harvest is reported on State issued subsistence fishing permits. There are few subsistence permits issued for the Adak District recently since the U.S. Navy presence has declined. According to Fox et al. 2020, “In 2020 the estimated harvest of 250 sockeye salmon were the only fish reported harvested in the Adak District. Between 2015 and 2019, an average of 2 Adak District subsistence permits were issued with an estimated average harvest of 141 sockeye and 6 coho, no other species were harvested between 2015 and 2019”.

### **Effects**

According to Title VIII, section 804 of the Alaska National Interest Lands Conservation Act (ANILCA), “...the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over taking on such lands of fish and wildlife for other purposes.” There are currently nonsubsistence uses permitted in this area making the current situation out of compliance with Title VIII of ANILCA. Rescinding the closure would provide Federal opportunity to harvest salmon in freshwater drainages on Adak and Kagalaska Islands, thereby providing priority consumptive use to Federally qualified subsistence users.

If the closure is rescinded, Federal subsistence regulations for the Aleutian Islands Area would apply but conservation concerns are unlikely because subsistence harvest in recent years has been very minimal and occurs primarily in marine waters. If necessary to conserve fish populations, the Federal in-season manager could exercise their delegated authority to manage the fisheries (**Appendix 1**).

## OSM PRELIMINARY CONCLUSION

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

The regulations would read:

§ \_\_.27(e)(6) *Aleutian Islands Area*

\*\*\*

*(iv) You may not subsistence fish for salmon in the following waters:*

\*\*\*

~~*(E) All fresh water on Adak Island and Kagalaska Island in the Adak District.*~~

\*\*\*

### Justification

These drainages are currently closed to the harvest of salmon by Federally qualified subsistence users and remain open to other uses. Federal subsistence opportunity should also be provided to comply with the rural preference mandated by ANILCA. The closure broadly covers all Federal public freshwaters on Adak and Kagalaska Islands. There is no evidence to suggest it is necessary to close all these Federal public freshwaters to Federal subsistence salmon fishing. Providing opportunity for Federally qualified subsistence users is not likely to lead to a conservation concern because subsistence harvest in recent years has been very minimal and occurs primarily in marine waters. The Federal in-season manager has been delegated authority to open or close Federal subsistence fishing periods or areas provided under codified regulations and to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries (**Appendix 1**). The in-season manager can use this authority to manage the fisheries as necessary. A proposal outlining desired parameters for these fisheries may be submitted during the next fisheries cycle so they can be put into regulation.

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**APPENDIX 1**  
**DELEGATION OF AUTHORITY LETTER TO THE INSEASON MANAGER OF THE**  
**SOUTHWEST ALASKA AREA**

Branch Chief - Fisheries  
U.S. Fish and Wildlife Service  
Anchorage Fish and Wildlife Conservation Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Branch Chief:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Branch Chief - Fisheries of the Anchorage Fish and Wildlife Conservation Office (Branch Chief) to issue emergency special actions when necessary to ensure the conservation of a healthy fish population, to continue subsistence uses of fish, for the continued viability of a fish population, or for public safety reasons. This delegation only applies to Federal public waters subject to the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII in the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas.

It is the intent of the Board that Federal subsistence fisheries management by Federal officials be coordinated, prior to implementation, with Regional Advisory Council (Council) representatives, the Office of Subsistence Management (OSM), and the Alaska Department of Fish and Game (ADF&G), to the extent possible. The OSM will be used by managers to facilitate communication of actions and to ensure proposed actions are technically and administratively aligned with legal mandates and policies. Federal managers are expected to cooperate with managers from the State and other Federal agencies, the Council Chair(s), and applicable Council members to minimize disruption to resource users and existing agency programs, consistent with the need for emergency special action.

**DELEGATION OF AUTHORITY**

- 1. Delegation:** The Branch Chief is hereby delegated authority to issue emergency special actions affecting fisheries in Federal public waters as outlined under the **Scope of Delegation** below. Although a public hearing is not required for emergency special actions, if deemed necessary by you, then a public hearing on the emergency special action is recommended. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.
- 2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: “The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board.”
- 3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(a) and 50 CFR 100.19(a). Such an emergency action may not exceed 60 days, and may not be extended.

This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries.

This delegation also permits you to close and re-open Federal public waters to nonsubsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve healthy populations of fish or to ensure the continuation of subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations or requests for special actions greater than 60 days, shall be directed to the Board.

The Federal public waters subject to this delegated authority are those within the Bristol Bay/Alaska Peninsula/Aleutian Islands/Chignik Areas (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). You will coordinate all local fishery decisions with all affected Federal land managers.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Review of Proposed Special Actions:** You will use the following guidelines to determine the appropriate course of action when reviewing proposed special actions.

- a) Does the proposed special action fall within the geographic and regulatory scope of delegation?
- b) Have you communicated with the OSM to ensure the emergency special action is aligned with Federal subsistence regulations and policy?
- c) Does the proposed action need to be implemented immediately as an emergency special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the next regulatory cycle?
- d) Does the supporting information in the proposed special action substantiate the need for the action?
- e) Are the assertions in the proposed special action confirmed by available current biological information and/or by affected subsistence users?
- f) Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?
- g) Is the proposed special action likely to achieve the expected results?
- h) Have the perspectives of the Chair or alternate of the affected Council(s), OSM, and affected State and Federal managers been fully considered in the review of the proposed special action?
- i) Have the potential impacts of the proposed special action on all affected subsistence users and non-Federally qualified users within the drainage been considered?

j) Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?

k) After evaluating all information and weighing the merits of the special action against other actions, including no action, is the proposed emergency special action reasonable, rational, and responsible?

**6. Guidelines for Delegation:** You will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

You will provide subsistence users in the region a local point of contact about Federal subsistence fishery issues and regulations and facilitate a local liaison with State managers and other user groups. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. You will also establish meaningful and timely opportunities for government-to-government consultation related to pre-season and post-season management actions as established in the Board's Government to Government Tribal Consultation Policy (Federal Subsistence Board Government to Government Tribal Consultation Policy 2012).

You will review emergency special action requests or situations that may require an emergency special action and all supporting information to determine (1) consistency with 36 CFR 242.19 and 50 CFR 100.19, (2) if the request/situation falls within the scope of your delegated authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action may be on potentially affected subsistence uses and nonsubsistence uses. Requests not within your delegated authority will be forwarded to the Board for consideration.

You will maintain a record of all special action requests and justification of your decisions. A copy of this record will be provided to the Administrative Records Specialist at OSM no later than sixty days after development of the document.

You will immediately notify the Board through the Assistant Regional Director for the OSM, and coordinate with Chair or alternate of the affected Council(s), local ADF&G managers, and other affected Federal conservation unit managers concerning emergency special actions being considered.

If the timing of a regularly scheduled meeting of the affected Council(s) permits without incurring undue delay, you may seek Council recommendations on the proposed emergency special action.

You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify Council representatives, the public, OSM, affected State and Federal managers, and law enforcement personnel. If an action is to supersede a State action not yet in effect, the decision will be communicated to Council representatives, the public, OSM, and State and Federal managers at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponents of the request immediately.

You may defer an emergency special action request, otherwise covered by the delegation of authority, to the Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. These options should be exercised judiciously and only when sufficient time allows. Such deferrals should not be considered

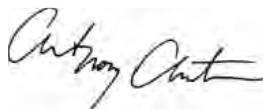
when immediate management actions are necessary for conservation purposes. The Board may determine that an emergency special action request may best be handled by the Board, subsequently rescinding the delegated authority for the specific action only.

**7. Reporting:** You must provide to the Board, through the Assistant Regional Director for the OSM, a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15. A summary of emergency special action requests and your resultant actions must be provided to the coordinator of the appropriate Council(s) at the end of the calendar year for presentation during regularly scheduled Council meetings.

**8. Support Services:** Administrative support for your local Federal subsistence fisheries management activities will be provided by the Office of Subsistence Management.

Should you have any questions about this delegation of authority, please feel free to contact the Assistant Regional Director for the OSM at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,



Anthony Christianson  
Chair

Enclosures: Maps of the Bristol Bay, Aleutian Islands, and Alaska Peninsula/Chignik areas

cc: Federal Subsistence Board

Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Policy Coordinator, Office of Subsistence Management  
Fisheries Division Supervisor, Office of Subsistence Management  
Chair, Bristol Bay Subsistence Regional Advisory Council  
Chair, Kodiak/Aleutians Subsistence Regional Advisory Council  
Superintendent, Lake Clark/Katmai National Parks and Preserve  
Manager, Togiak National Wildlife Refuge  
Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex  
Manager, Izembek National Wildlife Refuge  
Manager, Alaska Maritime National Wildlife Refuge  
Assistant Regional Director, Law Enforcement, U.S. Fish and Wildlife Service (Region 7)  
Commissioner, Alaska Department of Fish and Game  
Interagency Staff Committee  
Administrative Record

# Fisheries Resource Monitoring Program (FRMP)

## 2024 Overview

### Quick Info

- Established in 2000
- Focuses on subsistence fisheries in Federal public waters in Alaska
- Solicits proposals every two years
- Projects may be awarded up to four years of funding
- See <https://www.doi.gov/subsistence/frmp> for more information

### What is the FRMP?

The Office of Subsistence Management (OSM) funds research to provide information that can help manage subsistence fisheries in Federal public waters in Alaska. *Projects are required to focus on harvest monitoring, traditional ecological knowledge (TEK), and stock status and trends.* Proposals are evaluated based on strategic priority, scientific merit, investigator ability and resources, cost/benefit, and the extent to which they meaningfully involve Alaska Native and rural organizations (partnerships and capacity building). Projects may be led by Alaska Native and rural organizations, universities, government agencies, or private contractors.

### Priority Information Needs (PINs)

PINs are research needs that could be addressed through FRMP projects. Federal Subsistence Regional Advisory Council (Council) members help develop potential PINs throughout the summer before an FRMP cycle. Potential PINs are then discussed and finalized during the fall Council meetings. Finalized PINs are included in the FRMP project solicitations and ultimately influence the direction of the Monitoring Program.

### FRMP Timeline

March-November 2022: Council members develop potential 2024 priority information needs and finalize them at fall Council meetings

December 2022: OSM publishes Notice of Funding Opportunity

February – May 2023: OSM reviews proposals

June 2023: Technical Review Committee evaluates and scores proposals

September – November 2023: Councils and Interagency Staff Committee comment on proposals

January 2024: Federal Subsistence Board provides recommendation on the draft Monitoring Plan that includes proposals recommended for funding

February 2024: Assistant Regional Director for OSM approves Monitoring Plan and notification letters are sent to applicants

May - July 2024: Projects begin

## Southwest FRMP Projects Since 2000

| Project Number   | Project Title  | Investigators      |
|--|--|--------------------|
| <b>Bristol Bay Salmon Projects</b>                     |  |                    |
| 00-010   | Togiak River Salmon Weir   | USFWS              |
| 00-031   | Alagnak River Sockeye Salmon Escapement  | AFD&G, NPS, BBNA   |
| 00-033   | Alagnak River Angler Effort Index  | ADF&G, NPS, BBNA   |
| 00-042   | Lake Clark Sockeye Salmon Assessment   | USGS               |
| 01-047   | Togiak River Subsistence Harvest Monitoring  | BBNA, ADF&G, USFWS |
| 01-075   | Nondalton Sockeye Salmon and Freshwater Fish TEK   | NPS, NTC, USGS     |
| 01-095   | Lake Clark Sockeye Salmon Escapement   | USGS, NTC          |
| 01-109   | Traditional Ecological Knowledge of Alaska Peninsula/Becharof NWR  | ADF&G, BBNA        |
| 01-173   | Alagnak River Harvest Salmon Escapement Estimation   | ADF&G              |
| 01-204   | Ugashik Lakes Coho Salmon Escapement Estimation  | USFWS              |
| 03-046   | Fisheries Biotechnician Training Program   | NPS                |
| 04-411   | Lake Clark Sockeye Salmon Run Timing   | USFWS, BBNA        |
| 04-454   | Bristol Bay Sharing, Bartering, and Traded of Subsistence Resources  | ADF&G, BBNA        |
| 05-402   | Lake Clark Sockeye Salmon Escapement   | NPS, USGS          |
| 08-402   | Togiak River Chinook Salmon Radio Telemetry  | USFWS, BBNA, ADF&G |
| 08-405   | Lake Clark Sockeye Salmon Assessment   | NPS, USS&E, BBNA   |
| 10-402   | Togiak River Chinook Salmon Adult Assessment   | USFWS, BBNA, ADF&G |
| 16-451   | Bristol Bay Subsistence Salmon Networks  | ADF&G, BBNA, OSU   |
| 16-453   | Togiak River Chinook Salmon Subsistence Harvest Assessment   | ADF&G, BBNA        |
| 22-452 <sup>a</sup>                                    | False Pass and Nelson Lagoon Subsistence Harvest Monitoring and Traditional Ecological Knowledge (TEK) Investigation | ADF&G              |
| 22-453 <sup>a</sup>                                    | Subsistence Harvests and Uses of Salmon and Other Wild Resources in Manokotak, Alaska                                | ADF&G, BBNA        |
| <b>Chignik Salmon Projects</b>                         |  |                    |
| 02-098   | Kametalook River Coho Salmon Escapement & Carrying Capacity  | USFWS, BBNA        |
| 02-099   | Clark River Estimation of Sockeye and Coho Salmon Escapement   | USFWS, BBNA        |
| 03-043   | Perryville Coho Salmon Escapement  | USFWS              |
| 05-405   | Perryville-Chignik Coho and Sockeye Salmon Aerial Surveys  | USFWS              |
| 07-404   | Perryville-Clark River Coho and Sockeye Salmon Aerial Surveys  | USFWS              |
| 22-401 <sup>a</sup>                                    | Chignik River Subsistence Harvest Surveys and Escapement Indexing  | ADF&G, USFWS, CIC  |
| <b>Bristol Bay-Chignik Freshwater Species Projects</b> |  |                    |
| 00-011   | Togiak River Dolly Varden Genetic Baseline Development   | USFWS              |



| <b>Project Number</b>            | <b>Project Title</b>  | <b>Investigators</b>  |
|----------------------------------|---|-----------------------|
| 00-012                           | Bristol Bay Traditional Knowledge of Fish   | ADF&G                 |
| 02-034                           | Kvichak River Resident Species Subsistence Fisheries  | ADF&G, BBNA           |
| 04-401                           | Ungalikthlik and Negukthlik Rivers Rainbow Trout Assessment                                     | USFWS                 |
| 04-415                           | Tazimina Rainbow Trout Assessment   | ADF&G                 |
| 05-403                           | Lake Clark Whitefish Assessment   | ADF&G                 |
| 07-408                           | Togiak River Rainbow Smelt Assessment   | USFWS, BBNA           |
| 07-452                           | Kvichak Watershed Subsistence Fishing Ethnography   | ADF&G, BBNA, NPS      |
| 12-452                           | Whitefish Trends in Lake Clark and Iliamna Lake   | ADF&G, BBNA, NPS, NTC |
| <b>Kodiak-Aleutians Projects</b> |   |                       |
| 00-032                           | Buskin River Sockeye Salmon Stock Assessment  | ADF&G                 |
| 01-059                           | McLees Lake Sockeye Salmon Escapement   | USFWS                 |
| 01-206                           | Mortenson Creek Sockeye and Coho Salmon Escapement  | USFWS                 |
| 02-032                           | Lower Alaska Peninsula/Aleutians Subsistence Fish Harvest Assessment                            | ADF&G, APIA, ISU      |
| 03-047                           | Afognak Lake Sockeye Smolt Enumerations Feasibility   | ADF&G                 |
| 04-402                           | Mortenson Creek Sockeye and Coho Escapement   | USFWS                 |
| 04-403                           | McLees Lake Sockeye Salmon Escapement   | USFWS                 |
| 04-412                           | Afognak Lake Sockeye Salmon Stock Assessment  | ADF&G                 |
| 04-414                           | Buskin River Sockeye Salmon Stock Assessment  | ADF&G                 |
| 04-457                           | Kodiak Subsistence Fisheries Harvest and TEK  | ADF&G, KANA           |
| 07-401                           | Afognak Lake Sockeye Salmon Smolt Assessment  | ADF&G                 |
| 07-402                           | Buskin River Sockeye Salmon Weir  | ADF&G                 |
| 07-405                           | McLees Lake Sockeye Salmon Weir   | USFWS, ADF&G, QT      |
| 10-401                           | Afognak Lake Sockeye Salmon Smolt and Adult Assessment  | ADF&G                 |
| 10-403                           | Buskin River Sockeye Salmon Adult Assessment  | ADF&G                 |
| 10-404                           | Buskin River Sockeye Salmon Smolt Assessment Feasibility  | ADF&G                 |
| 10-406                           | McLees Lake Sockeye Salmon Weir   | USFWS, ADF&G, QT      |
| 12-450                           | Aleutian Islands Salmon and Other Subsistence Harvests  | ISU                   |
| 12-453                           | Kodiak Salmon Fishery Changing Patterns   | ADF&G                 |
| 14-401                           | Buskin River Sockeye Salmon Stock Assessment  | ADF&G                 |
| 14-402                           | Afognak Lake Sockeye Salmon Stock Assessment  | ADF&G                 |
| 16-452                           | Western Gulf of Alaska Salmon and Other Harvests  | ISU                   |
| 18-400                           | Buskin River Sockeye Salmon Stock Assessment and Monitoring                                     | ADF&G                 |
| 18-450                           | Unalaska Fish Harvest Practices   | ADF&G                 |
| 18-451                           | Subsistence Harvest Trends of Salmon and Nonsalmon Fish in 4 Southern Kodiak Island Communities | ADF&G                 |
| 20-400 <sup>a</sup>              | McLees Lake Sockeye Salmon Escapement   | ADF&G/QT              |
| 20-450 <sup>a</sup>              | Kodiak Road System Subsistence Salmon and Nonsalmon   | ADF&G                 |
| 22-400 <sup>a</sup>              | Buskin River Salmon Stock Assessment and Monitoring, Kodiak, Alaska                             | ADF&G                 |

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| <b>Project Number</b> | <b>Project Title</b>   | <b>Investigators</b> |
|-----------------------|--|----------------------|
| 22-454 <sup>a</sup>   | Reliable estimates of subsistence harvests and uses in Ouzinkie and Port Lions | ADF&G, USFWS         |

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a= Ongoing project.

Abbreviations used for investigators are: **ADF&G** = Alaska Department of Fish and Game, **APIA** = Aleutian-Pribilof Islands Association, **BBNA** = Bristol Bay Native Association, **CIC** = Chignik Intertribal Coalition, **ISU** = Idaho State University, **KANA** = Kodiak Area Native Association, **NPS** = National Park Service, **NTC** = Nondalton Tribal Council, **OSU** = Oregon State University, **QT** = Qawalangin Tribe, **USFWS** = U.S. Fish and Wildlife Service, **USGS** = U.S. Geological Survey, **USS&E** = U.S. Science and Education, and **UW** = University of Washington.

## **Partners for Fisheries Monitoring Program Notice of Funding Opportunity**

The Office of Subsistence Management is seeking proposals for the Partners for Fisheries Monitoring Program to strengthen Alaska Native and rural involvement in Federal subsistence management. The Partners for Fisheries Monitoring Program is a competitive grant program that provides funding for biologist/social scientist/educator positions in Alaska Native and rural nonprofit organizations with the intent of increasing the organizations' ability to participate in Federal subsistence management. In addition, the program supports a variety of opportunities for rural students to learn about subsistence resource monitoring and management through science camps and paid internships.

More information about the Partners for Fisheries Monitoring Program Notice of Funding Opportunity can be found in *GrantSolutions.gov*, *Grants.gov*, or on the Office of Subsistence Management Website <https://www.doi.gov/subsistence/partners>, or by contacting Karen Hyer at [Karen\\_Hyer@fws.gov](mailto:Karen_Hyer@fws.gov), 907-786-3689.



McLees Lake Weir, Unalaska Island. Photograph by Jenny Renee.

## **ANNUAL REPORTS**

### **Background**

ANILCA established the Annual Reports as the way to bring regional subsistence uses and needs to the Secretaries' attention. The Secretaries delegated this responsibility to the Board. Section 805(c) deference includes matters brought forward in the Annual Report.

The Annual Report provides the Councils an opportunity to address the directors of each of the four Department of Interior agencies and the Department of Agriculture Forest Service in their capacity as members of the Federal Subsistence Board. The Board is required to discuss and reply to each issue in every Annual Report and to take action when within the Board's authority. In many cases, if the issue is outside of the Board's authority, the Board will provide information to the Council on how to contact personnel at the correct agency. As agency directors, the Board members have authority to implement most of the actions which would effect the changes recommended by the Councils, even those not covered in Section 805(c). The Councils are strongly encouraged to take advantage of this opportunity.

### **Report Content**

Both Title VIII Section 805 and 50 CFR §100.11 (Subpart B of the regulations) describe what may be contained in an Annual Report from the councils to the Board. This description includes issues that are not generally addressed by the normal regulatory process:

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

Please avoid filler or fluff language that does not specifically raise an issue of concern or information to the Board.

### **Report Clarity**

In order for the Board to adequately respond to each Council's annual report, it is important for the annual report itself to state issues clearly.

- If addressing an existing Board policy, Councils should please state whether there is something unclear about the policy, if there is uncertainty about the reason for the policy, or if the Council needs information on how the policy is applied.
- Council members should discuss in detail at Council meetings the issues for the annual report and assist the Council Coordinator in understanding and stating the issues clearly.

- Council Coordinators and OSM staff should assist the Council members during the meeting in ensuring that the issue is stated clearly.

Thus, if the Councils can be clear about their issues of concern and ensure that the Council Coordinator is relaying them sufficiently, then the Board and OSM staff will endeavor to provide as concise and responsive of a reply as is possible.

### **Report Format**

While no particular format is necessary for the Annual Reports, the report must clearly state the following for each item the Council wants the Board to address:

1. Numbering of the issues,
2. A description of each issue,
3. Whether the Council seeks Board action on the matter and, if so, what action the Council recommends, and
4. As much evidence or explanation as necessary to support the Council's request or statements relating to the item of interest.

# 2023 NORTH AMERICAN CARIBOU WORKSHOP & ARCTIC UNGULATE CONFERENCE

Anchorage, Alaska ■ May 8-12, 2023

Come to the conference to share your knowledge and learn from others! Join an international group of managers, biologists, Indigenous and Local Knowledge holders, and others to share knowledge of caribou, muskoxen, Dall's sheep, moose, and reindeer. The meeting will provide opportunities for exchanging viewpoints, concerns, and recommendations regarding the health, stewardship, use, and study of these important species.

The theme for the joint meeting is *Crossing Boundaries*: Arctic ungulates regularly cross landscape boundaries, connecting ecosystems and peoples, necessitating partnerships and collaboration across management and political boundaries. A critical component of such partnerships involves crossing the boundaries of Western science and Indigenous knowledges to identify creative opportunities to sustain Arctic ungulate populations in a changing world. We will explore these themes across four days of research talks, storytelling, workshops and panel discussions. Join us!

For more information visit [www.nacw-auc-2023.org](http://www.nacw-auc-2023.org) or e-mail [info@nacw-auc-2023.org](mailto:info@nacw-auc-2023.org).



The Wilderness Society



AMERICAN OVERSIGHT



# Estimation of Sockeye Salmon Escapement into McLees Lake

## Fall 2022 update

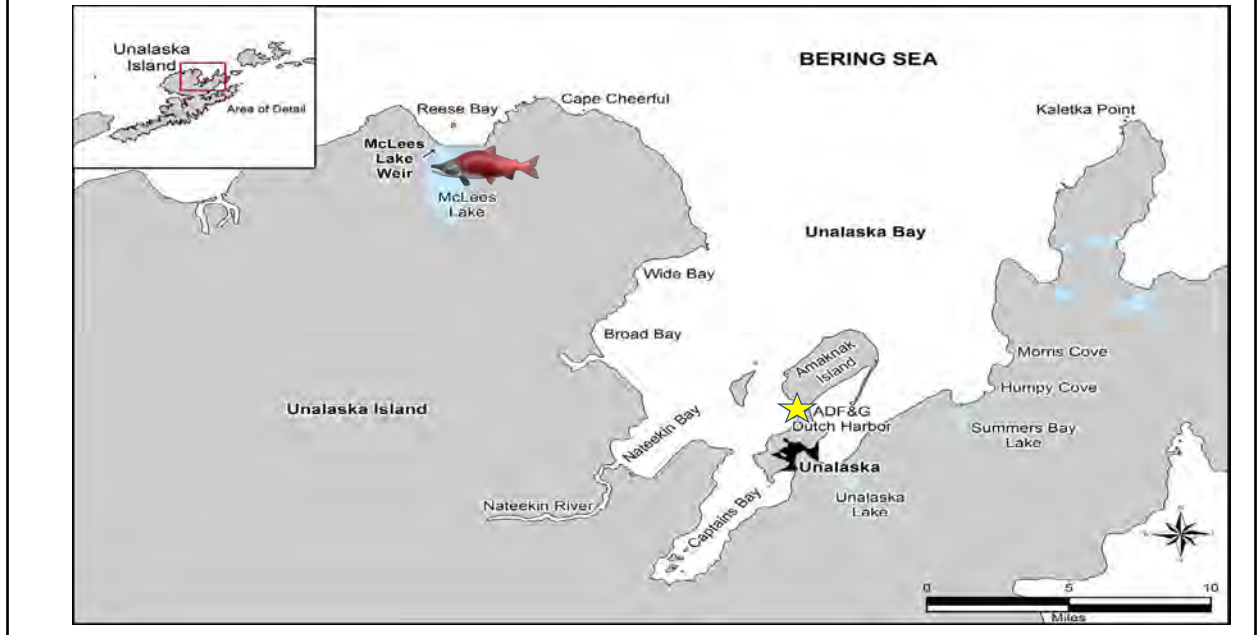
Jenny Renee  
Qawalangin Tribe of Unalaska  
Fisheries Outreach  
Coordinator



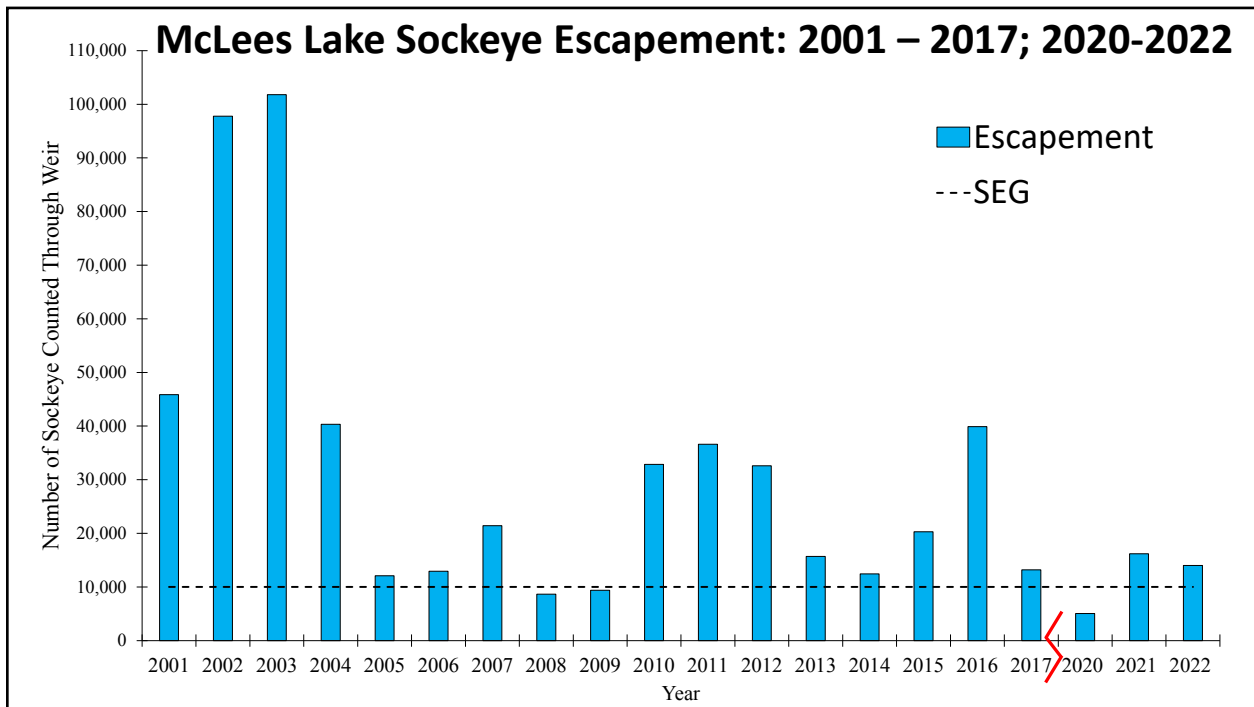
Tyler Lawson  
Alaska Department of Fish & Game  
Assistant Area Management Biologist



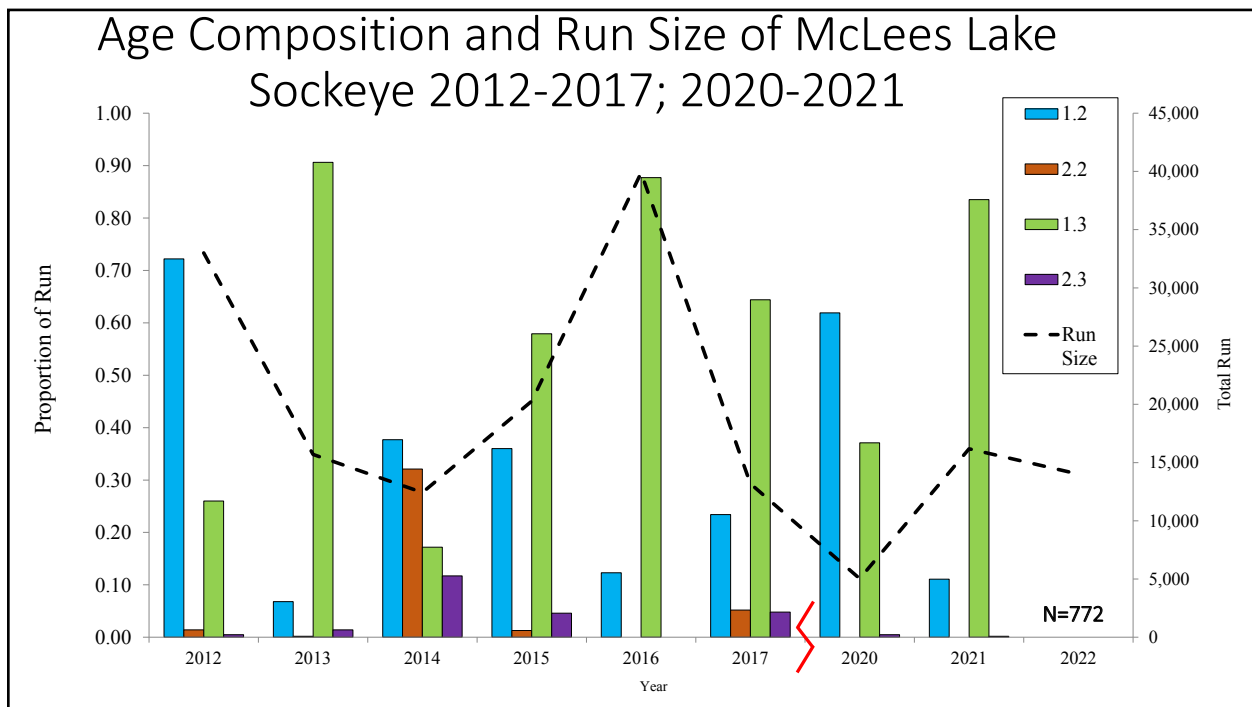
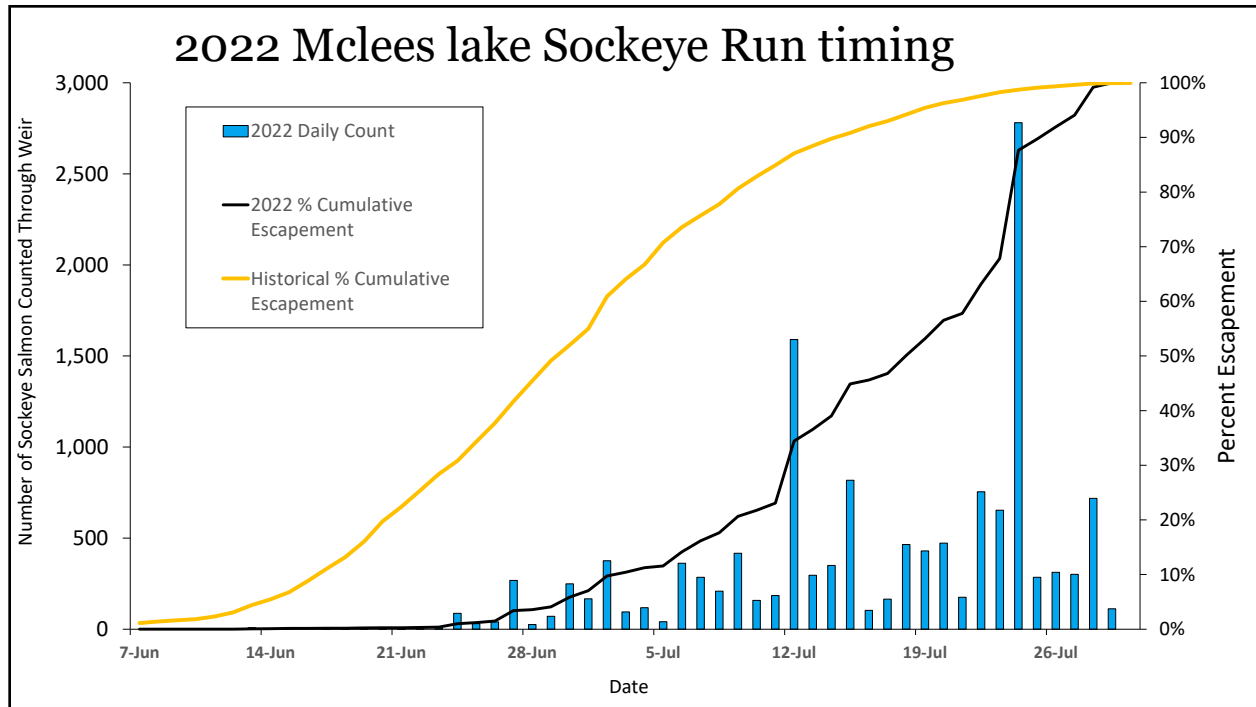
## Location of McLees Lake on Unalaska Island



## McLees Lake Outlet Weir. 2001-2017; 2020-2023







# Limnology OSM & ARRI Temperature Monitoring



Qagaasakung!



Jenny@Qawalangin.com  
Tyler.Lawson@Alaska.gov



**Photo: Kanesia McGlashan-Price**



## Project Updates

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### 1. FRMP 18-450 Changing Regulations, Changing Environment, Changing Practices: A Study of Fish Harvest Practices in Unalaska (Ends December 31, 2022)

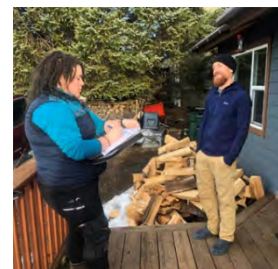
**Purpose:** Produce reliable estimates of the harvest and use of salmon and other nonsalmon fish species used for subsistence in Unalaska.

**Next step:** Researchers traveled to Unalaska from June 23–27 to conduct additional participant observation. The final project report will be submitted in December 2022.

### 2. FRMP 2020-450: Subsistence harvest trends of salmon and nonsalmon fish in Kodiak City and road-connected areas (Ends June 30, 2023)

**Purpose:** (1) Provide reliable harvest estimates of the use of salmon and other nonsalmon fish species for subsistence, and (2) document local observations of change in fish populations and associated effects on subsistence uses for the Kodiak Road System.

**Next step:** From February 15–April 15, 10 researchers and 4 local research assistants conducted 268 comprehensive household harvest surveys and a group mapping interview session with 5 key respondents. Draft results will be presented at a community data review meeting in November 2022.



### 3. FRMP 2022-454: Reliable estimates of subsistence harvests and uses in Ouzinkie and Port Lions (Ends December 31, 2024)

**Purpose:** (1) Produce reliable estimates of salmon and other resources harvested and used for subsistence; (2) Create comprehensive spatial maps of subsistence harvest areas; and (3) Document local observations of subsistence harvesting practices and potential changes in subsistence resource populations, harvesting trends, and areas used.

**Next step:** In partnership with the Kodiak National Wildlife Refuge, project scoping meetings will take place in both communities between November and January. Household harvest surveys will take place in winter of 2023.

### 4. FRMP 2022-452: False Pass and Nelson Lagoon Subsistence Harvest Monitoring and Traditional Ecological Knowledge (TEK) Investigation (Ends June 30, 2025)

**Purpose:** (1) Estimate subsistence salmon and other wild resources harvest amounts for study year 2023; (2) Evaluate the subsistence salmon permit system and recommend improvements based on study findings; (3) Document traditional ecological knowledge (TEK) observations related to the effects of environmental change on salmon populations and subsistence activities.

**Next step:** Researchers will travel to both communities for a scoping meeting prior to the 2024 household harvest surveys for the 2023 study year.

## For more information or concerns about subsistence

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1. Contact Jackie Keating, Southcentral Subsistence Resource Specialist: (907) 267-2368, [jacqueline.keating@alaska.gov](mailto:jacqueline.keating@alaska.gov)
2. Visit the Community Subsistence Information System: <http://www.adfg.alaska.gov/sb/CSIS/>
3. Download Subsistence Publications: <http://www.adfg.alaska.gov/sf/publications/>



# Winter 2023 Regional Advisory Council Meeting Calendar

*Last updated 03/28/2022*

Due to travel budget limitations placed by Department of the Interior on the U.S. Fish and Wildlife Service and the Office of Subsistence Management, the dates and locations of these meetings will be subject to change

| Sunday         | Monday  | Tuesday                                       | Wednesday-                                 | Thursday                                      | Friday                   | Saturday       |
|----------------|---|---|--|---|--------------------------|----------------|
| <i>Feb. 19</i> | <b>Feb. 20<br/>PRESIDENTS<br/>DAY<br/>HOLIDAY</b> | <i>Feb. 21</i><br><br><i>Window<br/>Opens</i> | <i>Feb. 22</i>                             | <i>Feb. 23</i><br><br><b>NSRAC (Kaktovik)</b> | <i>Feb. 24</i>           | <i>Feb. 25</i> |
|                |   |   | <b>KARAC (TBD)</b>                         |   |                          |                |
| <i>Feb. 26</i> | <i>Feb. 27</i>                                    | <i>Feb. 28</i>                                | <i>Mar. 1</i>                              | <i>Mar. 2</i>                                 | <i>Mar. 3</i>            | <i>Mar. 4</i>  |
|                |   | <b>SEARAC (Juneau)</b>                        |  |   |                          |                |
|                |   |   | <b>EIRAC (Arctic Village or Fairbanks)</b> |   |                          |                |
| <i>Mar. 5</i>  | <i>Mar. 6</i>                                     | <i>Mar. 7</i>                                 | <i>Mar. 8</i>                              | <i>Mar. 9</i>                                 | <i>Mar. 10</i>           | <i>Mar. 11</i> |
|                | <b>NWARAC (TBD)</b>                               |   |  |   |                          |                |
| <i>Mar. 12</i> | <i>Mar. 13</i>                                    | <i>Mar. 14</i>                                | <i>Mar. 15</i>                             | <i>Mar. 16</i>                                | <i>Mar. 17</i>           | <i>Mar. 18</i> |
|                |   | <b>BBRAC (Dillingham)</b>                     |  | <b>SCRAC (Anchorage)</b>                      |                          |                |
| <i>Mar. 19</i> | <i>Mar. 20</i>                                    | <i>Mar. 21</i>                                | <i>Mar. 22</i>                             | <i>Mar. 23</i>                                | <i>Mar. 24</i>           | <i>Mar. 25</i> |
|                |   |   | <b>SPRAC (Nome)</b>                        |   |                          |                |
| <i>Mar. 26</i> | <i>Mar. 27</i>                                    | <i>Mar. 28</i>                                | <i>Mar. 29</i>                             | <i>Mar. 30</i>                                | <i>Mar. 31</i>           | <i>Apr. 1</i>  |
| <i>Apr. 2</i>  | <i>Apr. 3</i>                                     | <i>Apr. 4</i>                                 | <i>Apr. 5</i>                              | <i>Apr. 6</i>                                 | <i>Apr. 7</i>            | <i>Apr. 8</i>  |
|                | <b>YKDRAC (Alakanuk)</b>                          |   |  |   | <i>Window<br/>Closes</i> |                |
|                |   | <b>WIRAC (Aniak)</b>                          |  |   |                          |                |

# Fall 2023 Regional Advisory Council Meeting Calendar

*Last updated 08/1/2022*

Due to travel budget limitations placed by Department of the Interior on the U.S. Fish and Wildlife Service and the Office of Subsistence Management, the dates and locations of these meetings will be subject to change.

| Sunday  | Monday                                | Tuesday | Wednesday | Thursday | Friday                         | Saturday |
|---------|---------------------------------------|---------|-----------|----------|--------------------------------|----------|
| Aug. 13 | Aug. 14<br><b>Window Opens</b>        | Aug. 15 | Aug. 16   | Aug. 17  | Aug. 18                        | Aug. 19  |
| Aug. 20 | Aug. 21                               | Aug. 22 | Aug. 23   | Aug. 24  | Aug. 25                        | Aug. 26  |
| Aug. 27 | Aug. 28                               | Aug. 29 | Aug. 30   | Aug. 31  | Sep. 1                         | Sep. 2   |
| Sep. 3  | Sep. 4<br><b>Labor Day Holiday</b>    | Sep. 5  | Sep. 6    | Sep. 7   | Sep. 8                         | Sep. 9   |
| Sep. 10 | Sep. 11                               | Sep. 12 | Sep. 13   | Sep. 14  | Sep. 15                        | Sep. 16  |
| Sep. 17 | Sep. 18                               | Sep. 19 | Sep. 20   | Sep. 21  | Sep. 22                        | Sep. 23  |
| Sep. 24 | Sep. 25                               | Sep. 26 | Sep. 27   | Sep. 28  | Sep. 29                        | Sep. 30  |
| Oct. 1  | Oct. 2                                | Oct. 3  | Oct. 4    | Oct. 5   | Oct. 6                         | Oct. 7   |
| Oct. 8  | Oct. 9<br><b>Columbus Day Holiday</b> | Oct. 10 | Oct. 11   | Oct. 12  | Oct. 13                        | Oct. 14  |
| Oct. 15 | Oct. 16                               | Oct. 17 | Oct. 18   | Oct. 19  | Oct. 20                        | Oct. 21  |
| Oct. 22 | Oct. 23                               | Oct. 24 | Oct. 25   | Oct. 26  | Oct. 27                        | Oct. 28  |
| Oct. 29 | Oct. 30                               | Oct. 31 | Nov. 1    | Nov. 2   | Nov. 3<br><b>Window Closes</b> | Nov. 4   |

## **Subsistence Regional Advisory Council Correspondence Policy**

The Federal Subsistence Board (Board) recognizes the value of the Regional Advisory Councils' role in the Federal Subsistence Management Program. The Board realizes that the Councils must interact with fish and wildlife resource agencies, organizations, and the public as part of their official duties, and that this interaction may include correspondence. Since the beginning of the Federal Subsistence Program, Regional Advisory Councils have prepared correspondence to entities other than the Board. Informally, Councils were asked to provide drafts of correspondence to the Office of Subsistence Management (OSM) for review prior to mailing. Recently, the Board was asked to clarify its position regarding Council correspondence. This policy is intended to formalize guidance from the Board to the Regional Advisory Councils in preparing correspondence.

The Board is mindful of its obligation to provide the Regional Advisory Councils with clear operating guidelines and policies, and has approved the correspondence policy set out below. The intent of the Regional Advisory Council correspondence policy is to ensure that Councils are able to correspond appropriately with other entities. In addition, the correspondence policy will assist Councils in directing their concerns to others most effectively and forestall any breach of department policy.

The Alaska National Interest Lands Conservation Act, Title VIII required the creation of Alaska's Subsistence Regional Advisory Councils to serve as advisors to the Secretary of the Interior and the Secretary of Agriculture and to provide meaningful local participation in the management of fish and wildlife resources on Federal public lands. Within the framework of Title VIII and the Federal Advisory Committee Act, Congress assigned specific powers and duties to the Regional Advisory Councils. These are also reflected in the Councils' charters. (*Reference: ANILCA Title VIII §805, §808, and §810; Implementing regulations for Title VIII, 50 CFR 100 \_\_.11 and 36 CFR 242 \_\_.11; Implementing regulations for FACA, 41 CFR Part 102-3.70 and 3.75*)

The Secretaries of Interior and Agriculture created the Federal Subsistence Board and delegated to it the responsibility for managing fish and wildlife resources on Federal public lands. The Board was also given the duty of establishing rules and procedures for the operation of the Regional Advisory Councils. The Office of Subsistence Management was established within the Federal Subsistence Management Program's lead agency, the U.S. Fish and Wildlife Service, to administer the Program. (*Reference: 36 CFR Part 242 and 50 CFR Part 100 Subparts C and D*)

### **Policy**

1. The subject matter of Council correspondence shall be limited to matters over which the Council has authority under §805(a)(3), §808, §810 of Title VIII, Subpart B §\_\_\_.11(c) of regulation, and as described in the Council charters.
2. Councils may, and are encouraged to, correspond directly with the Board. The Councils are advisors to the Board.
3. Councils are urged to also make use of the annual report process to bring matters to the Board's attention.

4. As a general rule, Councils discuss and agree upon proposed correspondence during a public meeting. Occasionally, a Council chair may be requested to write a letter when it is not feasible to wait until a public Council meeting. In such cases, the content of the letter shall be limited to the known position of the Council as discussed in previous Council meetings.
5. Except as noted in Items 6, 7, and 8 of this policy, Councils will transmit all correspondence to the Assistant Regional Director (ARD) of OSM for review prior to mailing. This includes, but is not limited to, letters of support, resolutions, letters offering comment or recommendations, and any other correspondence to any government agency or any tribal or private organization or individual.
  - a. Recognizing that such correspondence is the result of an official Council action and may be urgent, the ARD will respond in a timely manner.
  - b. Modifications identified as necessary by the ARD will be discussed with the Council chair. Councils will make the modifications before sending out the correspondence.
6. Councils may submit written comments requested by Federal land management agencies under ANILCA §810 or requested by regional Subsistence Resource Commissions (SRC) under §808 directly to the requesting agency. Section 808 correspondence includes comments and information solicited by the SRCs and notification of appointment by the Council to an SRC.
7. Councils may submit proposed regulatory changes or written comments regarding proposed regulatory changes affecting subsistence uses within their regions to the Alaska Board of Fisheries or the Alaska Board of Game directly. A copy of any comments or proposals will be forwarded to the ARD when the original is submitted.
8. Administrative correspondence such as letters of appreciation, requests for agency reports at Council meetings, and cover letters for meeting agendas will go through the Council's regional coordinator to the appropriate OSM division chief for review.
9. Councils will submit copies of all correspondence generated by and received by them to OSM to be filed in the administrative record system.
10. Except as noted in Items 6, 7, and 8, Councils or individual Council members acting on behalf of or as representative of the Council may not, through correspondence or any other means of communication, attempt to persuade any elected or appointed political officials, any government agency, or any tribal or private organization or individual to take a particular action on an issue. This does not prohibit Council members from acting in their capacity as private citizens or through other organizations with which they are affiliated.

Approved by the Federal Subsistence Board on June 15, 2004.





**Department of the Interior  
U. S. Fish and Wildlife Service**

**Kodiak/Aleutians Subsistence Regional Advisory Council**

**Charter**

1. **Committee’s Official Designation.** The Council’s official designation is the Kodiak/Aleutians Subsistence Regional Advisory Council (Council).
2. **Authority.** The Council is renewed by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3115 (1988)) Title VIII, and under the authority of the Secretary of the Interior, in furtherance of 16 U.S.C. 410hh-2. The Council is regulated by the Federal Advisory Committee Act (FACA), as amended, (5 U.S.C., Appendix 2).
3. **Objectives and Scope of Activities.** The objective of the Council is to provide a forum for the residents of the Region with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal lands and waters in the Region.
4. **Description of Duties.** Council duties and responsibilities, where applicable, are as follows:
  - a. Recommend the initiation, review, and evaluate of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the region.
  - b. Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife on public lands within the Region.
  - c. Encourage local and regional participation in the decision-making process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses.
  - d. Prepare an annual report to the Secretary containing the following:
    - (1) An identification of current and anticipated subsistence uses of fish and wildlife populations within the Region;
    - (2) An evaluation of current and anticipated subsistence needs for fish and wildlife populations within the Region;

- (3) A recommended strategy for the management of fish and wildlife populations within the Region to accommodate such subsistence uses and needs; and
    - (4) Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.
  - e. Make recommendations on determinations of customary and traditional use of subsistence resources.
  - f. Make recommendations on determinations of rural status.
  - g. Provide recommendations on the establishment and membership of Federal local advisory committees.
- 5. Agency or Official to Whom the Council Reports.** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.
- 6. Support.** The U.S. Fish and Wildlife Service will provide administrative support for the activities of the Council through the Office of Subsistence Management.
- 7. Estimated Annual Operating Costs and Staff Years.** The annual operating costs associated with supporting the Council’s functions are estimated to be \$175,000, including all direct and indirect expenses and 1.0 Federal staff year.
- 8. Designated Federal Officer.** The DFO is the Subsistence Council Coordinator for the Region or such other Federal employee as may be designated by the Assistant Regional Director – Subsistence, Region 11, U.S. Fish and Wildlife Service. The DFO is a full-time Federal employee appointed in accordance with Agency procedures. The DFO will:
- (a) Approve or call all Council and subcommittee meetings;
  - (b) Prepare and approve all meeting agendas;
  - (c) Attend all committee and subcommittee meetings;
  - (d) Adjourn any meeting when the DFO determines adjournment to be in the public interest; and
  - (e) Chair meetings when directed to do so by the official to whom the advisory committee reports.
- 9. Estimated Number and Frequency of Meetings.** The Council will meet 1-2 times per

year, and at such times as designated by the Federal Subsistence Board Chair or the DFO.

10. **Duration.** Continuing.
11. **Termination.** The Council will be inactive 2 years from the date the charter is filed, unless prior to that date, the charter is renewed in accordance with provisions of section 14 of the FACA. The Council will not meet or take any action without a valid current charter.
12. **Membership and Designation.** The Council’s membership is composed of representative members as follows:

Ten members who are knowledgeable and experienced in matters relating to subsistence uses of fish and wildlife and who are residents of the region represented by the Council.

To ensure that each Council represents a diversity of interests, the Federal Subsistence Board in their nomination recommendations to the Secretary will strive to ensure that seven of the members (70 percent) represent subsistence interests within the region and three of the members (30 percent) represent commercial and sport interests within the region. The portion of membership representing commercial and sport interests must include, where possible, at least one representative from the sport community and one representative from the commercial community.

For geographic membership balance, it is a Council goal to seat four members who reside on the Kodiak Archipelago, three members who reside on the Alaska Peninsula, and three who reside on the Aleutian and Pribilof Islands.

The Secretary of the Interior will appoint members based on the recommendations from the Federal Subsistence Board and with the concurrence of the Secretary of Agriculture.

Members will be appointed for 3-year terms. Members serve at the discretion of the Secretary.

If appointments for a given year have not yet been announced, a member may continue to serve on the Council following the expiration of his or her term until such appointments have been made. Unless reappointed, the member’s service ends on the date of announcement even if that member's specific seat remains unfilled.

Alternate members may be appointed to the Council to fill vacancies if they occur out of cycle. An alternate member must be approved and appointed by the Secretary before attending the meeting as a representative. The term for an appointed alternate member will be the same as the term of the member whose vacancy is being filled.

Council members will elect a Chair, Vice-Chair, and Secretary for a 1-year term.



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