



SOUTHCENTRAL ALASKA
SUBSISTENCE REGIONAL
ADVISORY COUNCIL
Meeting Materials
Book 1

*October 12-13, 2022
Anchorage*



What's Inside

Page

1	Agenda
5	Roster
6	Winter 2022 Draft Southcentral Regional Advisory Council Meeting Minutes
15	Winter 2022 Draft Joint Southcentral and Eastern Interior Regional Advisory Councils Meeting Minutes
22	Federal Subsistence Board 805(c) Cover Letter and Report to the Council
27	Federal Subsistence Board FY21 Annual Report Reply to the Council
38	Presentation Procedure for Proposals and Closure Reviews
39	FP23-07 Revise Kenai River Chinook Salmon Harvest Regulations
63	FP23-08/09/12 Revise Customary and Traditional Use Determination for Kenai Peninsula District Fish
75	FP23-19 Rescind Lower Copper River Area Salmon Fishery
140	FP23-14 Revise Customary and Traditional Use Determination for Chitina Subdistrict Salmon
158	FP23-15/16 Revise Customary and Traditional Use Determination for Chitina Subdistrict Salmon
178	Fisheries Request for Reconsideration FRFR22-01
186	2024 Fisheries Resource Monitoring Program Overview and Priority Information Needs for Southcentral Region
190	2024–2027 Partners for Fisheries Monitoring Notice of Funding Opportunity
191	Annual Report Briefing
193	Caribou Workshop/Conference Poster
194	Native Village of Eyak Partners Program Update
200	National Weather Service Climate Outlook
219	National Park Service Wildlife Special Action Unit 12 Caribou Update

On the cover...

Dolly Varden Char in Quartz Creek,
Kenai Peninsula



USFWS photo by V. Orange

What's Inside

- 221 National Park Service Denali Subsistence Resource Commission Update
- 224 Bureau of Land Management Update
- 227 Winter 2023 Council Meeting Calendar
- 228 Fall 2023 Council Meeting Calendar
- 229 Federal Subsistence Board Subsistence Regional Advisory Council Correspondence Policy
- 231 Region 2 – Southcentral Region Map
- 232 Region 2 – Southcentral Game Management Units Maps
- 239 Region 2 – Southcentral Fisheries Management Units Maps
- 241 Council Charter

SOUTHCENTRAL ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL

BP Energy Center
Anchorage, Alaska
October 12-13, 9:00 AM

TELECONFERENCE: call the toll-free number: **1-866-617-1530**, then when prompted enter the passcode: **93629472**

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*) 5
- 4. Welcome and Introductions** (*Chair*)
- 5. Review and Adopt Agenda*** (*Chair*) 1
- 6. Review and Approve Previous Meeting Minutes*** (*Chair*) 6
- 7. Reports**
 - a. Council Member Reports
 - b. Chair’s Report
- 8. Service Awards**
- 9. Public and Tribal Comment on Non-Agenda Items** (available each morning)
- 10. Old Business** (*Chair*)
 - c. 805(c) Report – summary (*Council Coordinator*) 22
 - d. Board FY2021 Annual Report Replies – summary (*Council Coordinator*) 27
 - e. Special Actions (*OSM Fisheries*)
- 11. New Business** (*Chair*)
 - a. Southcentral Federal Subsistence Fisheries Harvest Update (*NPS and NVE*)

b. Fisheries Proposals* (<i>OSM Fisheries/Anthropology</i>)	38
<i>Regional Proposals – Cook Inlet Area</i>	
FP23-07 Revise Kenai River Chinook Salmon harvest regulations	39
FP23-08/09/12 Revise customary and traditional use determination for Kenai Peninsula District fish	63
<i>Regional Proposals – Prince William Sound Area</i>	
FP23-19 Rescind Lower Copper River salmon fishery	75
<i>Crossover Proposals – Southcentral and Eastern Interior</i>	
FP23-14 Revise customary and traditional use determination for Chitina Subdistrict salmon	140
FP23-15/16 Revise customary and traditional use determination for the Chitina Subdistrict salmon	158
c. Fisheries Request for Reconsideration FRFR22-01 update (<i>OSM Fisheries</i>)	178
d. 2024 Fisheries Resource Monitoring Program Overview and Priority Information Needs* (<i>OSM Fisheries/Anthropology</i>)	186
e. 2024–2027 Partners for Fisheries Monitoring Notice of Funding Opportunity (<i>OSM Fisheries/Anthropology</i>)	190
f. Harvest of wildlife for sport purposes in national preserves* (<i>NPS</i>)	
g. Identify issues for FY2022 Annual Report* (<i>Council Coordinator</i>)	191
h. Fall 2022 Council application/nomination open season (<i>Council Coordinator</i>)	
i. Joint meeting: North American Caribou Workshop and Arctic Ungulate Conference in May 2023*	193
j. Telephonic/internet expenses related to the Council teleconference meetings (<i>OSM Staff</i>)	
12. Agency Reports	
(Time limit of 15 minutes unless approved in advance)	
a. Tribal Governments	
1. Ninilchik Traditional Council	
2. Native Village of Eyak – Partners Program report (<i>Matt Piche</i>)	194
b. Native Organizations	
1. Ahtna InterTribal Resource Commission	
c. National Weather Service (<i>Brian Brettschneider</i>)	200
d. Alutiiq Pride Marine Institute (<i>Annette Jarosz</i>)	
e. U.S. Fish and Wildlife Service (<i>Todd Eskelin</i>)	
f. National Park Service	
1. Wrangell-St. Elias National Park and Preserve (<i>Barbara Cellarius, Dave Sarafin</i>)	219
2. Denali National Park and Preserve (<i>Amy Craver</i>)	221

- g. Bureau of Land Management (*Caroline Ketron*) 224
- h. U.S. Forest Service (*Steve Namitz*)
- i. Alaska Department of Fish and Game
- j. Office of Subsistence Management

13. Future Meeting Dates*

- a. Confirm Winter 2023 meeting date and location 227
- b. Select Fall 2023 meeting date and location 228

14. Closing Comments

15. Adjourn (*Chair*)

To call into the meeting, dial the toll-free number: **1-866-617-1530**, then when prompted enter the passcode: **93629472**

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 Jessica Gill, 907-310-6129, jessica_gill@fws.gov, or 800-877-8339 (TTY), by close of business on October 3, 2022.

REGION 2
Southcentral Alaska Subsistence Regional Advisory Council

Seat	Year Appointed Term Expires	Member Name and Community
1	2016 2022	Edward H. Holston <i>Cooper Landing</i>
2	2011 2022	Michael V. Opheim <i>Seldovia</i>
3	2003 2022	Richard G. Encelewski Chair <i>Ninilchik</i>
4	2016 2022	Diane A. Selanoff <i>Valdez</i>
5	2017 2022	Dennis Zadra <i>Cordova</i>
6	2003 2023	Gloria Stickwan Vice Chair <i>Copper Center (Tazlina)</i>
7	2021 2023	Angela K. Totemoff <i>Anchorage</i>
8	2021 2023	Donna Claus <i>Chitina</i>
9	2021 2023	Andrew T. McLaughlin <i>Chenega Bay</i>
10	2021 2024	Donna Marie Faust Wilson <i>Sutton</i>
11	2019 2024	Hope L. Roberts Secretary <i>Valdez</i>
12	2019 2024	Heath Q. Kocan <i>Cordova</i>
13	2021 2024	Michael G. Rego <i>Glennallen</i>

SOUTHCENTRAL SUBSISTENCE REGIONAL ADVISORY COUNCIL

Meeting Minutes

Via Teleconference/Videoconference
February 10, 2022

Invocation

Gloria Stickwan gave an invocation.

Call to Order, Roll Call and Quorum Establishment

The meeting was called to order Thursday, February 10, 2022, at approximately 9:15 a.m. Council members Ed Holsten, Michael Opheim, Greg Encelewski, Diane Selanoff, Dennis Zadra, Gloria Stickwan, Angela Totemoff, Andy McLaughlin, Donna Wilson, Hope Roberts, and Heath Kocan were present. Donna Claus and Michael Rego were not present and were excused. A quorum was established with 11 of 13 seated Council members participating by phone during this meeting.

Attendees participating via teleconference:

- Office of Subsistence Management (OSM): ***Robbin La Vine, Tom Kron, Dr. Jonathan (Brent) Vickers, Pippa Kenner, Dr. Hannah Voorhees, Elizabeth Williams, Dr. Jason Roberts, Orville Lind, Scott Ayers, Jarred Stone, Lisa Grediagin, Brian Ubelaker, George Pappas, and Theo Matuskowitz***
- USDA - Forest Service (USFS): ***David Schmid, Jeff Schramm, DeAnna Perry, Greg Risdahl, Bret Christensen, Steve Namitz, Ruth D'Amico, Milo Burcham, Stormy Haught, Heather Thamm, Andrew Morse, and Stephanie Latimer***
- Ahtna Intertribal Resource Commission (AITRC): ***Karen Linnell***
- Native Village of Eyak (NVE): ***Matte Piche***
- Ninilchik Traditional Council (NTC): ***Darrell Williams***
- Bureau of Indian Affairs (BIA): ***Dr. Glenn Chen, and Pat Petrivelli***
- Kenai National Wildlife Refuge (NWR), U.S. Fish and Wildlife Service (USFWS): ***Ken Gates and Todd Eskelin***
- U.S. Fish & Wildlife Service: ***Jill Klein***
- Bureau of Land Management (BLM): ***Paul (Chris) McKee, Valerie Lenhartzen, and Caroline Ketron***
- National Park Service (NPS), Anchorage: ***Victoria Florey and Heather Coletti***
- Wrangell-St. Elias National Park and Preserve (NPP), NPS: ***Dr. Barbara Cellarius, David Sarafin, Judy Putera, and Mark Miller***
- Denali NPP, NPS: ***Amy Craver***
- Lake Clark NPP, NPS: ***Elizabeth Rupp***

- Alaska Department of Fish and Game (ADF&G): **Ben Mulligan, Mark Burch, and Jackie Keating**
- Members of the Public: **Daniel Stevens, Dillon Patterson, and Mary Hake**

Welcome and Introductions

Federal Subsistence Board Member and Regional Forester Dave Schmid welcomed everyone to the meeting. He extended appreciation to the Council members, recognizing the challenges of participating in Council meetings virtually because of the COVID-19 pandemic. He provided various Forest Service updates regarding Presidential Executive Orders and issues affecting subsistence issues before the Council. Chugach Forest Supervisor Jeff Schramm introduced himself and added his welcome and appreciation to the Council. He introduced new Seward District Ranger, Ruth D'Amico (Francisco Sanchez retired).

Review and Adopt Agenda

Amended motion by Ms. Gloria Stickwan, seconded by Mr. Michael Opheim, to adopt the agenda with the following additional agenda items:

10b: Update on Council Application Process

11g: Nonrural Determination Proposal Information

Election of Officers

Mr. Greg Encelewski was re-elected the Council's Chair.

Ms. Gloria Stickwan was re-elected the Council's Vice Chair.

Ms. Hope Roberts was elected the Council's Secretary.

Review and Approve Previous Meeting Minutes

Motion by Ms. Angela Totemoff, seconded by Ms. Selanoff, to approve the fall 2021 meeting minutes as presented with correction to Gloria Stickwan's Council member report: "the bear mauling happened in **Glennallen**" (instead of Wrangell-St. Elias National Park and Preserve as originally typed). The motion passed unanimously.

Council Member Reports

Edward Holsten of Cooper Landing reported that the community experienced a decent winter with a lot of snow and little ice. Snowshoe hare populations are still increasing and there have been more sightings of lynx. A recent newspaper article provided a grim forecast for Sockeye Salmon runs in Cook Inlet and Copper River.

Michael Opheim of Seldovia reported that his community was having a pretty good winter also with quite a bit of snow. Numerous snowshoe hares have been sighted and the population continues to increase. Fishing for winter King Salmon has been successful. A young black bear was seen last weekend and a few moose are wandering around. There is hope for a good return on King Salmon this year in the

Slough, like last year.

Diane Selanoff of Valdez reported that salmon were very slow in returning in 2021; however, when they did run, the abundance was normal. Winter King Salmon have been easy to get with fishermen being about 90% successful. Lynx and weasels are abundant. People have been successful hunting and are sharing with others; however, probably because of COVID, people were less likely to gather and go hunting together with their extended families. Deer have been seen less, and this might be because of the amount of snow in the area.

Dennis Zadra of Cordova reported that the community experienced a really early snow fall that started on September 14th, which resulted in about two feet of snow. By December, snow was thigh deep off the beach and in meadows and the deer were right on the beach and easy to harvest. The Alaska Board of Fisheries met in Cordova in early December, and it was a productive meeting. Mark and Sandy King, longtime residents of Cordova, submitted a letter regarding the subsistence moose hunt, and Mr. Zadra wanted to inform the Council of the issue: a permit was issued to a family member that had died, and OSM then issued the permit to the next person in line instead of issuing it to the family of the deceased. This is the process in the regulations regarding issuing individual permits and to change this permitting would require the regulation to be changed.

Gloria Stickwan of Tazlina reported that winter came early with snow and cold temperatures (down to 60 below zero). The area is receiving a lot of snow now, and it is difficult for the moose to move in the deep snow. The king salmon return goal on the Copper River was not met, but the Sockeye Salmon goal was met.

Angela Totemoff of Anchorage reported slow King and Red salmon runs; however, harvesting of Silver Salmon were good for community members. There are low populations of octopus and increased populations of both land and sea otters. Herring are returning to spawning grounds but spawning deeper than usual. They are looking into the cause of this. An interesting marine monitoring group has started up in the area and they are excited to see what information comes from that.

Andrew McLaughlin of Chenega Bay, reported that there were early heavy snows, and there is concern about the impact it will have on the deer population. Hardshell clams and crabs are minimal, while softshell clams and octopus harvests are average. Sun stars are back and are found deeper in tidal zones. There are a lot of sea otters in the area. It is anticipated that snow will impact the berry crop next fall.

Donna Wilson of just below Sheep Mountain Reserve, new member of the Council, shared that she enjoys fishing and trapping and that she is very familiar with her area from her experience in running a guiding business between the Nelchina and Matanuska. She reported that Unit 13 receives a tremendous amount of pressure from all users. There is an additional problem with an early State hunt for moose affecting availability of the resource by the time subsistence users are able to hunt. She would like to see better access for subsistence earlier in the season. She looks forward to learning about the various work of the program to become an effective Council member. She would like to hear from subsistence people in the area about how they feel the Council can help manage or make resources available. She wants to help

residents who want to access animals for hunting, her neighbors who have fish wheels, and those who fish the Copper River.

Hope Roberts of Valdez, new member on the Council, shared that she is of Tlingit/Athabascan/English descent and shared her affiliations: Native Tribal Liaison at Chugach Regional Resources Commission, Chair of Valdez Advisory Committee, and Secretary of the Board of Directors of Valdez Native Tribe. She owns a sportfishing charter and is a marine mammal hunter. She provided a community report. Moose were seen for the first time in 13 years in Valdez. A local Wildlife Trooper said the wolves are pushing the moose down due to the amount of snow in Thompson Pass. The amount of snow also helped deer hunters be successful. Lynx have been spotted in town, presumably because of all the bunnies in Valdez. The sea otters in the local area are one-third the size of the otters seen on the Kodiak Islands and in the Homer area. Seals seem very healthy, and they are harvested as needed.

Heath Kocan of Cordova, new Council member, introduced himself. He is a subsistence user and he was recently hired on with the Science Center in town. His new job has kept him busy, so he only has a little to report. He was successful in his moose hunt. He has heard reports that winter King Salmon run has been slow.

Greg Encelewski of Ninilchik reported a good moose hunting season for his area. It was a good winter season with more snow than needed, and it is taking a toll on the moose as are wolves. Winter King Salmon are doing pretty well. Clams are an important resource. The clam population has decreased significantly, so the local Advisory Council discussed a few proposals regarding the management of this resource. His community receives bountiful blessings, and they continue to share those with each other.

Chair's Report: The Federal Subsistence Board met February 1, 2022 and took action on the Individual C&T for Kathryn Martin—she had a long-standing tradition of use in the area. The Board also approved the FY-2022 Fisheries Resource Monitoring Program (FRMP) program, which included one project in the Southcentral Region.

Old Business

Overview of 2021 Council Charter Changes

Tom Kron, OSM, and Council Coordinator, DeAnna Perry, USFS, provided a summary of the changes to the Council's 2021 charter as approved by the Secretary of the Interior. For this Council, these included the 'carryover terms' clause to allow members to continue to serve until new Secretarial appointments are made, and some Description of Duties, which referenced Executive Orders that were either irrelevant or revoked by newly issued Executive Order, were stricken from the Charter.

Council Application/Nomination Update

Council Coordinator DeAnna Perry, USFS, provided information about the annual appointment process and announced that an application/nomination season is currently open until February 28th, 2022. Application information can be found on the Program's website or by contacting the Coordinator by email: deanna.perry@usda.gov.

Deferred FP21-10 Information

Tom Kron, OSM, reminded the Council of Fisheries Proposal FP21-10 details, including the history of actions on this proposal by the Southcentral and Eastern Interior Councils. The Board deferred this proposal back to the Councils in hopes that a compromise could be reached that the Board could consider in the future. The date for this joint meeting between the Councils is March 16, 2022.

New Business

Fisheries Resource Monitoring Program Information Update

Jarred Stone, OSM, presented the Council with the FRMP update and explained the next steps in the process. The 2022 FRMP funding cycle is in its final phase. Council members Gloria Stickwan and Heath Kocan volunteered to work on Priority Information Needs (PINs) for the 2024 FRMP cycle over the summer and assist with identifying knowledge gaps and information needed for the management of subsistence fisheries for the Southcentral Region. The resulting draft PINs list will be presented to the Council for their final approval during the fall 2022 meeting.

Prince William Sound Freshwater and Marine Water Jurisdictions

Robbin La Vine, OSM, shared information regarding the freshwater and marine water jurisdictions in the Prince William Sound area. She had previously provided this briefing to the Council's workgroup for this issue. There are no Federal waters in Prince William Sound. Federal government management of the Exclusive Economic Zone for waters that lie between the three miles from shore to 200 miles offshore is governed through the Magnuson-Stevenson Fisheries Conservation and Management Act, not ANILCA. She also explained that the granting of extra-territorial jurisdiction would not transform those State fisheries jurisdiction waters into Federal subsistence fisheries jurisdiction waters, and it would not initiate a procedural methodology to create an aligned Federal Subsistence, State marine, or the Federal marine fisheries regulatory processes.

Alaska Board of Fisheries Regulatory Actions Information Share / Fisheries Report

Dave Sarafin, NPS, gave an overview of some of the actions taken by the Alaska Board of Fisheries at its November – December 2021 meeting that would affect the Southcentral Region. These included: prohibiting professional guide service assistance in the Upper Copper River District, adding subsistence bag possession limits for Dolly Varden, Prince William Sound, establishing gear size restrictions or definitions for subsistence, adding of Pink and Chum salmon additional limits for subsistence. The Alaska Board of Fisheries also took up various proposals directed at dipnet fishing, and a proposal requesting the establishment of an optimum escapement goal and departing from the sustainable escapement goal of the fishery management plan.

Mr. Sarafin then provided a fisheries report, which included specific details regarding salmon activity in the Copper River District and Federal and State of Alaska management decisions on these resources. He shared the ADF&G preseason Copper River forecast and informed the Council of 2022 early season management strategies for the Federal subsistence fisheries.

Copper River Sockeye Salmon Research Projects Report

Mark Miller, NPS, provided a brief overview of three new NPS funded research projects focusing on Copper River Sockeye Salmon stocks, noting that two of those projects will begin this year: evaluation of genetic analysis as a tool for estimating the stock composition of Sockeye Salmon harvest, using existing data sets to look at factors affecting migratory success of Copper River Sockeye Salmon to develop a better understanding of the impact of environmental changes, and further genetic sampling to characterize health and energetic status of genetically determined Sockeye Salmon stocks to determine mortality risk. He also informed the Council of ADF&G's recommendation to lower the sustainable escapement goal for Chinook Salmon and answered questions about two separate management plans: Copper River District Salmon Management Plan and the Copper River King (Chinook) Salmon Management Plan.

Call for Federal Fish and Shellfish Proposals

Jarred Stone, OSM, 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. In addition, there are several statewide closures currently in place that will be reviewed during the fall 2022 Council meeting cycle; however, all of those closures fall outside of the Southcentral Region.

Call for Nonrural Determination Proposals

Dr. Jason Roberts, OSM, informed the Council that the Board will soon be accepting proposals to change a community's status from non-rural to rural or from rural to non-rural in Federal regulations during the same window as the call for fisheries proposals. The call for non-rural determination proposals occurs every four years and after the pending call for non-rural determination proposals, the next opportunity to submit a non-rural determination proposal will be in 2026. Dr. Brent Vickers, Anthropology Division Supervisor, OSM, provided additional information regarding the steps in the non-rural determination proposal process.

Review and approve FY 2021 Annual Report

The Council unanimously approved the drafted Fiscal Year-2021 Annual Report to the Board with an additional topic questioning why FP21-10 was sent back to the Southcentral and Eastern Interior Councils. As the decision maker of the program, it is the Board's responsibility to take action on the proposals instead of sending back to affected Councils for further discussion. List of Topics to be included are:

1. Fisheries proposal FP21-10 deferral to the Southcentral/Eastern Interior Regional Advisory Councils
2. Concerns with process for customary and traditional use determinations

3. Subsistence Use Amounts – options to conserve salmon of Copper River
4. Jurisdictional Issue – Is there a way to provide for Federally qualified user harvest in Prince William Sound waters
5. Requests for research and funding to continue for Fisheries Resource Monitoring Program
6. Requests for further information on ocean acidification and other recent effects of climate change on fish stocks in Southcentral Region

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

Tom Kron, OSM, informed the Council that the Interagency Staff Committee is working to improve workload efficiencies within the FSMP and briefed the Board on the annual report reply process and possible revisions to improve responsiveness to the Regional Advisory Council concerns. The Council was asked for input on what information it expects from the Board in the Board's Annual Report Reply letter. The Council shared that it has done its best to provide priority subjects to the Board and it feels the annual report is a successful direct communication on various issues to the Board. The Council took no action, but it understood that if the Council wanted the Board to provide detailed specific responses on a particular complex issue, that it could write a letter outlining those specific questions to the Board outside its Annual Report process.

Receiving Public Testimony Protocol – Guided Discussion

Tom Kron, OSM, informed the Council of the opportunities for the public to provide oral/written comments to the Board and to the Council during each regulatory cycle:

First opportunity: When the call for proposals is published in the Federal Register (general comments as well as proposals are accepted during this timeframe outlined in the Federal Register – window is open 45 to 90 days or longer).

Second opportunity: When validated proposals are published in the 'proposal book,' which is posted on the Federal Subsistence Management Program web page.

Third opportunity: At the Council meetings (the region within which the proposal would affect).

Fourth opportunity: During the Board meeting.

The Council was then asked for its preferences regarding the receipt of public comments and provided feedback for the program to consider as it reviews the current protocol and practice of receiving public comments during the regulatory cycle, such as: the Council appreciates public feedback orally and in writing; concerns for the lack of clarity in cut-off point where public comments are no longer accepted; concerns that council members do not have adequate time to review last-minute public comment submissions; and summaries of long public comments are acceptable but the whole comment should be available for the council to look at if they want to see the comment in its entirety.

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

Tom Kron, OSM, reminded the Council that there is currently a law that requires all Federal departments and agencies to gain approval through the Office of Management and Budget (OMB) prior to the collecting of information from the public. OMB contacted OSM and tasked them with exploring the use

of automated permits within the program and now OSM is asking the Councils and the public for ideas on how to address issues that might arise during the issuance of permits into the future. Comments should be submitted by November 15, 2022. This was not an action item for the Council; however, a few Council members provided comments at the meeting, which included the suggestion to look at how ADF&G handles their automated permitting process.

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

Tom Kron, OSM, provided a briefing on the status of a proposed rule to complete regulatory proceedings addressing submerged public lands within the Tongass National Forest, as directed by the Court. Council Coordinator, DeAnna Perry, and the OSM regulatory specialist Theo Matuskowitz confirmed that the proposed submerged lands were all on the Tongass National Forest and outside the Southcentral Alaska Region. This was not an action item; however, the Council was advised that a 60-day comment period will be opening soon for anyone who would like to provide comment on this proposed rule.

Public Testimony (for complete testimony, please review meeting transcripts for February 10, 2022, posted online at <https://www.doi.gov/subsistence/library/transcripts/2-south-central-alaska>)

Karen Linnell: Expressed concerns about the process to review FRMP projects by the Technical Review Committee and suggested that having Tribal representation at the proposal reviews is key to making sure it is a balanced and fair process.

Agency Reports:

- Darrell Williams presented a report on the Cook Inlet Ninilchik subsistence fishery on the Kasilof and Kenai rivers
- Matt Piche, Biologist and Natural Resources Coordinator, presented the Native Village of Eyak 2021 In-river Abundance Estimate Report for the Copper River Chinook Salmon Monitoring Program
- Todd Eskelin, Biologist, presented the USFWS – Kenai National Refuge report, which included updates on various hunt harvests
- Greg Risdahl, Subsistence Program Leader, provided the annual USFS-Subsistence Program report; Milo Burcham, biologist, presented the USFS – Chugach National Forest report along with harvest reporting for Prince William Sound and Copper River Delta portions of the Chugach National Forest and he advised that the bear project work was coming to an end; and Heather Thamm provided information on harvests on the Kenai Peninsula area
- Dr. Barbara Cellarius, Wrangell-St. Elias Subsistence Coordinator, and Judy Putera, Wildlife Biologist, presented NPS – Wrangell-St. Elias National Park and Preserve updates on fisheries (including FRMP), anthropology, and wildlife for the area. These reports included an update on the Chisana Caribou Herd, harvest information, status of several anthropological and subsistence projects with a variety of partners; Dave Sarafin, Fisheries Biologist, provided the fisheries report earlier in the meeting
- Amy Craver, Subsistence Manager, provided a written Denali National Park and Preserve report

- Heather Coletti, Marine Ecologist, Southwest Alaska Inventory and Monitoring Program and Parks, NPS, gave a presentation on razor clams in Cook Inlet
- Caroline Ketron, anthropologist, presented the BLM - Glennallen Field Office report, which included harvest updates and project work with various entities such as Ahtna InterTribal Resource Commission (AITRC) and ADF&G; Heather Coletti answered questions from the Council regarding permitting and moose harvests
- Jackie Keating, Subsistence Resource Specialist III, presented the ADF&G Subsistence Report, informing the Council of various ongoing projects, including a clam recovery project with the Native Village of Chenega in collaboration with the Chugach Regional Resource Commission, updated comprehensive harvest surveys in Tatitlek, updating comprehensive subsistence harvest information with Wrangell- St Elias and AITRC
- Tom Kron, State Support Division Supervisor, presented the OSM report, including personnel updates, the effect of COVID-19 on Council meetings across the State, and an update on the lawsuit by the State of Alaska against the Board
- Karen Linnell, Executive Director, presented the AITRC report, including information on the community harvest system and the concerns for poor salmon returns. Ms. Linnell also advised of AITRC's work on several projects such as the Ahtna ethnography and caribou snow and ice TEK project for the Wrangell-St. Elias NP, the work with the Native Village of Chitina to development of a Tribal historic preservation office, the work with Copper River Watershed Project for DNA sampling to aid in a restoration plan, to name a few

Future Meeting Dates:

Joint Southcentral – Eastern Interior Council Meeting to be held March 16, 2022, by teleconference.

Fall 2022 meeting to be held October 12-13, 2022, in Anchorage, if able to meet in person.

Winter 2023 meeting to be held March 16-17, 2023, location to be determined.

DeAnna Perry, Designated Federal Officer
USDA Forest Service

Greg Encelewski, Chair
Southcentral Subsistence Regional Advisory Council

These minutes will be formally considered by the Southcentral Alaska 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 DeAnna Perry at 1-800-478-1456 or 907-209-7817, or email at deanna.perry@usda.gov.

**SOUTHCENTRAL ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL
EASTERN INTERIOR ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL**

Joint Meeting Minutes

Via Teleconference
March 16, 2022

Invocation

Sue Entsminger gave an invocation.

Call to Order, Roll Call and Quorum Establishment

The meeting was called to order Wednesday, March 16, 2022, at approximately 9:00 a.m. Southcentral Alaska Subsistence Regional Advisory Council (Southcentral Council) members Donna Claus, Greg Encelewski, Ed Holsten, Heath Kocan, Michael Rego, Hope Roberts, Diane Selanoff, Gloria Stickwan, Angela Totemoff, Donna Wilson, and Dennis Zadra were present via teleconference. Andrew McLaughlin and Michael Opheim were not present and were excused. Eastern Interior Alaska Subsistence Regional Advisory Council (Eastern Interior Council) members Andy Bassich, Sue Entsminger, William Glanz, Charles Jagow, Will Koehler, Jody Potts-Joseph, and Donald Woodruff were present via teleconference. Linda Evans, Nicholas Henry, Robert Wright, Sr., were not present and some were excused. A quorum for Southcentral Council was established with 11 of 13 seated Council members participating by phone. A quorum of Eastern Interior Council was established with 7 of 10 seated Council members participating by phone.

Attendees:

- Office of Subsistence Management (OSM): ***Sue Detwiler, Ameer Howard, Robbin La Vine, Katerina Wessels, Brooke McDavid, Tom Kron, Dr. Jonathan (Brent) Vickers, Dr. Jason Roberts, Scott Ayers, Justin Koller, Jarred Stone, George Pappas, and Karen Hyer***
- National Park Service (NPS), Anchorage: ***Sarah Creachbaum, Kim Jochum, Barbara Cellarius, Mark Miller, Dave Sarafin, Victoria Florey, and Dillon Patterson***
- USDA - Forest Service (USFS): ***David Schmid, DeAnna Perry, Greg Risdahl, Bret Christensen, Steve Namitz, Ruth D'Amico, Milo Burcham, Stormy Haught, Heather Thamm, and Andrew Morse***
- Bureau of Indian Affairs (BIA): ***Glenn Chen and Pat Petrivelli***
- U.S. Fish & Wildlife Service: ***Jill Klein***
- Bureau of Land Management (BLM): ***Paul (Chris) McKee***
- Members of the Public: ***no members of the public identified themselves on the record***

Review and Adopt Agenda

Motion by Ms. Diane Selanoff, seconded by Mr. Don Woodruff, to adopt the agenda as written. The motion passed unanimously.

Welcome and Introductions

Sarah Creachbaum, Regional Director, National Park Service, introduced herself and thanked all Council members for meeting on this issue. Dave Schmid, Regional Forester, USDA-Forest Service, also introduced himself and reminded the Councils of the Federal Subsistence Board's (Board) action on Fisheries Proposal FP21-10: the Board hoped the Councils would have a robust discussion to see if there were any opportunities to either modify FP21-10 or propose any other change that might improve the proposal. He noted that it was also acceptable if the joint Councils could not come to an agreement/consensus/compromise. He thanked all Council members for their service and recognized the extra work required of Council members to attend this meeting in addition to their individual respective Council meetings this winter.

Old Business – Fisheries Proposal FP21-10

Deferral and Charge from Federal Subsistence Board

DeAnna Perry, designated Federal official for the meeting, USFS, reminded everyone that Fisheries Proposal FP21-10 requested implementation of a salmon subsistence fishery in the lower Copper River adjacent to the Copper River Highway with a harvest limit of 15 salmon other than Pink Salmon for the first two members of a household and 10 salmon for additional household members, with not more than five Chinook Salmon per household, using dip net, rod and reel, spear, or gaff only. Ms. Perry then provided an overview of the history of this proposal since its submission, outlining the actions taken by the Councils and the Board throughout the regulatory process. During this overview, there were a few questions regarding biology and historic use of dipnets that were fielded by staff. There was an additional question regarding access in the lower Copper River and also a comment that the Board should not be telling the Councils to come to a consensus when the Councils had already provided recommendations to the Board. Ms. Perry reiterated Board member Dave Schmid's earlier comment that it was acceptable if the Councils could not come to a compromise on this proposal.

Review of analysis and updated information

Stormy Haight, fish biologist for Chugach National Forest, USFS, presented the analysis for FP21-10 and shared data from recent years, which was in addition to the information provided when this proposal was first discussed by the Councils in the fall of 2020. Council members asked about the number of people expected would use this fishery, the location of bridges in the area, the expectations of meeting harvest and escapement goals in the future, reasons public comments were not included in the analysis, and what the process for increasing escapement goals on the Copper River for Chinook Salmon to mitigate for the

loss of fecundity due to smaller fish returning at a younger age. Numerous Federal and State staff addressed these questions.

Comparison Table of Lower Copper River Fishery Proposals

Ms. Perry explained that this document was prepared as a tool for the Council members to use for discussions on this proposal. The table included the details of a previous fishery proposal, a previous special action, and the current proposal, all of which were similar in that they proposed a fishery in the Copper River area. The table was organized with categories such as “harvest areas, seasons, reporting periods,” etc., so that the Council members could compare these categories within each item at a glance. Staff thought this would be useful should the Councils wish to discuss and compare any one category across all three actions.

Gloria Stickwan, Southcentral Council member informed everyone that the Wrangell-St. Elias National Park and Preserve Subsistence Resource Commission met recently and unanimously opposed FP21-10 as written. She also referred to a chart created by Ahtna Intertribal Resource Commission regarding amounts necessary for subsistence under the State fisheries management, which had been shared with Council members just prior to this meeting.

Joint Council Deliberations on Deferred FP21-10

Each Council member who participated in the meeting was given an opportunity to provide comments on FP21-10, starting with Eastern Interior Council members. Some members read a prepared statement into the record. Two Southcentral Council members who could not be present at the meeting, previously provided written comments to the Chair to be read into the record.

Council members were reminded that each Council would have to take separate actions, even in the event of a compromise, because each Council is its own Federal Advisory Committee Act committee. As such, (1) each Council could provide an additional comment to their previous recommendation, (2) Southcentral Council could offer an additional recommendation, and/or (3) Eastern Interior Council could offer an additional comment. It was explained that because the Councils already voted on the proposal during the initial regulatory process and those recommendations and comments have already been forwarded to and considered by the Board, that today’s action would not be a ‘re-vote,’ but instead, would be an opportunity to provide additional recommendations/comments to the Board for supplemental consideration.

Eastern Interior Council Action: Motion by Mr. Andy Bassich, seconded by Ms. Jody Potts-Joseph, to support the OSM conclusions on FP21-10 with OSM modification. The motion failed 0-6, (4 absent – one Council member left the meeting prior to voting due to technical difficulties with his audio connection)

Eastern Interior Council Comments in Opposition:

- There are major conservation concerns for Copper River salmon and a new fishery should not be created when run sizes are declining and there is difficulty meeting escapement goals

- Alaska Department of Fish and Game lowered the escapement goal so that it looks like Copper River runs are doing okay, but management strategies are not working if escapement goals had to be lowered
- It is irresponsible to create a new fishery given all the changes in the marine environment where salmon rear. Cautious management is paramount due to the unknown impacts of climate change on Copper River salmon stocks.
- Fish are getting smaller in the Copper River. Because smaller females have less eggs, more fish need to reach the spawning grounds to ensure the viability of these runs into the future.
- Creating more opportunity in the lower river will put upper river subsistence fishers at a further disadvantage. Fishers in the Cordova region have tremendous opportunity to harvest multiple high quality salmon and other species, while fishing opportunity in the upper river is very limited.
- Food insecurity is a concern in the Interior region and additional harvest downriver could exacerbate this
- Dipnetting on the Copper River is not a customary and traditional fishery for Cordovans
- Not having a boat is not a reason to start a new fishery. The Eastern Interior Council members are concerned that this sets a precedent and new fisheries will be established every time someone says their subsistence needs aren't being met.
- The Eastern Interior Council members are concerned that some people in Cordova might be abusing subsistence opportunities and selling some subsistence caught salmon
- There has been a decline in the ability of residents of who live throughout the Copper River area to meet their subsistence needs in recent years
- Managers need to learn from the salmon declines on the Yukon River and the severe impacts that has had on Yukon River subsistence users. It would be sad to see the same thing happen on the Copper River.
- The Copper River is already experiencing increased numbers of users and that increase is already stressing the resource

There were no comments in support by the Eastern Interior Council.

Southcentral Council: Motion by Ms. Donna Claus to support the OSM conclusions on FP21-10 with OSM modification, seconded by Ms. Diane Selanoff, to support the OSM conclusions on FP21-10 with OSM modification. The motion failed 5-6, (2 absent)

Southcentral Council Comments in Opposition:

- There is already ample opportunity for subsistence salmon fishing in the Cordova area. Upper river residents only have the Copper River to fish on for salmon.
- The pandemic has passed and the same concerns for social distancing don't apply as when this proposal was introduced. If someone doesn't have a boat, they can once again go out with someone who does.
- People take care of each other. If someone doesn't have a boat to get the fish they need, someone will share salmon with them or allow them to fish with them.
- Salmon gets shared widely and passed out in Cordova. Native Village of Eyak is a great example of proxy subsistence community fishing under state rules.

- There is no history of anyone dipnetting in the Lower Copper River so a new fishery would not be providing for a traditional use
- Not a good idea to open a new fishery and increase opportunity when runs are declining, even if projected harvest would be small. Runs of both Chinook and Sockeye salmon are returning smaller and weaker fish.
- The State lowered escapement goals and still the run sizes have only been at the lower end of management objectives
- Subsistence salmon needs in the upper river are not being met
- This proposal will affect 23 communities who fish upriver from where the proposed fishery would occur
- Pursuant to data provided by the Ahtna Intertribal Resource Commission, in two of the 15 years from Gakona up to Batzulnetas and in 7 out of 15 years from Tonsina to Gakona, amounts necessary for subsistence have not been met
- Fishing would occur below the sonar before proper assessment of run size could occur
- The part of the river where this fishery is proposed would be difficult for anyone without a boat to access, so this will not increase opportunity for people without boats
- There are concerns that incidental catch will impact the stocks of King (Chinook) Salmon
- Opening new areas to make it easier to fish is not warranted in a declining fishery
- The current fisheries have too much use already

Southcentral Council Comments in Support:

- There is support for this proposal from many local residents and entities
- Adding a new fishing opportunity will not have an impact on escapement or upriver harvests, as harvest will be tiny compared to the other subsistence, personal use, and commercial fisheries take
- Not all community members can participate in the state subsistence fishery. This will give subsistence users who cannot afford a boat, gas, or gillnet a chance to catch some salmon.
- Will help people harvest subsistence salmon for their families and may especially help younger folks and elders
- This fishery isn't taking away from other fisheries or other opportunities for people to fish elsewhere, it just provides another place to harvest under a Federal subsistence fishery
- King (Chinook) Salmon incidentally caught in dip nets can be easily released so this fishery will not impact that species
- Dipnetting in other areas of Southcentral (such as those shared between the communities of Hope, Cooper Landing, and Ninilchik) have been successful without negatively impacting the resource. There was a lot of opposition for the Ninilchik gillnet, fear of decimating the fishery and harming King (Chinook) Salmon; however, this has not had a negative impact and has provided close to 4,000 fish for their community.
- During low runs, managers will be able to reduce or shut down this opportunity just like with other fisheries

- If fishing needs to be limited, personal and commercial use should be limited first. Subsistence users take a ‘small piece of the pie’ and should not have to fight each other over that small piece.
- Would help ensure opportunity is provided for all Federally qualified subsistence users and it is our duty as Council members to provide a priority for all Federally qualified rural subsistence users

Ms. Perry clarified that Councils were not voting on the proposal again and expressed the assumption that the motions made during this meeting were with the intent that the support or opposition expressed by each Council would be forwarded to the Board in the form of additional comments.

After the Eastern Interior Council voted, the Southcentral Council Chair was dropped from the call. While waiting for him to rejoin, the Eastern Interior Council Chair entertained a request for a 30-minute lunch break, and announced that the meeting would start again at 1:45 p.m. Immediately after that announcement, the Southcentral Chair rejoined the meeting and no lunch break was taken. During the Southcentral Council vote, it was found that two Council members were no longer on the call and it was assumed they took lunch and disconnected prior to the Southcentral Council Chair rejoining the call. The vote was left open until both Council members could provide their votes.

Comments in opposition by both Councils will be shared with the Board when it addresses deferred FP21-10. The Board will be given the link to this meeting’s transcript and will be encouraged to read all of the comments made throughout the meeting by members of both Councils to consider in its final deliberations on this proposal.

Closing Comments

Eastern Interior Council: No closing comments were given because at the time of closing comments, only the Chair was still present at the meeting. It is assumed that the other Council members took lunch when it was announced and did not call back in.

Southcentral Council: All eleven council members gave a closing comment after the final two Council members voted.

Substantial comments were made throughout the meeting by members of both councils and those comments appear in their entirety in the meeting transcript, which can be found here:

<https://www.doi.gov/sites/doi.gov/files/region-9-2-joint-meeting-16-mar-22.pdf>

DeAnna Perry, Designated Federal Officer
USDA – Forest Service

Richard G. Encelewski, Chair
Southcentral Alaska Subsistence Regional Advisory Council

Sue Entsminger, Chair
Eastern Interior Alaska Subsistence Regional Advisory Council

These minutes will be formally considered by the Southcentral and Eastern Interior Alaska Subsistence Regional Advisory Councils at their fall 2022 meetings, 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 DeAnna Perry at 907-209-7817 or by deanna.perry@usda.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

In Reply Refer To
OSM 22097.JG

AUG 29 2022

Richard (Greg) Encelewski, Chair
Southcentral Subsistence Regional Advisory Council
c/o Office of Subsistence Management
1011 E. Tudor Road, MS 121
Anchorage, AK 99503-6199

Dear Mr. Encelewski:

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)) provide that the Board will defer 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 during the 2022-2024 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>.

The Board uses a consensus agenda on those proposals and closure reviews 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 concerning a proposed regulatory action. These proposals and closure reviews were deemed non-controversial and did not require a separate discussion beyond that which was offered in the analysis. The consensus agenda contained seventeen proposals affecting the Southcentral Region, which the Board deferred to the Southcentral Subsistence Regional Advisory Council (Council) recommendations as follows: the Board *rejected* **WP22-13**, requesting that deer be removed from the Unit 6 specific designated hunter regulation; **WP22-14**, requesting that the black bear harvest limit in Unit 6 be increased from one to two black bears per year, and that the Unit 6D season would close if the harvest quota was met; **WP22-15**, requesting prohibiting trap or snare usage within 1,000 feet of specified trails, roadways, and campgrounds; **WP22-19**, requesting the recognition of the customary and traditional use of moose in Unit 15C by residents of Moose Pass; **WP22-32**, requesting the recognition of the customary and traditional uses by rural residents of the North Fork Road area and Nikolaevsk for black bears, brown bears, caribou, mountain goats, moose, and Dall sheep in Unit 15; and **WP22-34**, requesting to change the salvage requirement to a "bone in" for sheep taken in Units 11 and 12.

The Board *adopted* **WP22-16**, requesting the recognition of the customary and traditional use of moose in Units 7, 15A, and 15B by residents of Moose Pass; **WP22-17**, requesting the recognition of the customary and traditional use of moose in Unit 7 by residents of Moose Pass; **WP22-18**, requesting the recognition of the customary and traditional use of moose in Units 15A and 15B by residents of Moose Pass; **WP22-21**, requesting the recognition of the customary and traditional use of caribou in Unit 7 by residents of Moose Pass; and **WP22-23**, requesting the recognition of the customary and traditional use of goats in Unit 15 by residents of Moose Pass; **WP22-25a**, requesting the recognition of the customary and traditional use of sheep in Unit 7 by residents of Cooper Landing; **WP22-26a**, requesting the recognition of the customary and traditional use of sheep in Unit 7 by residents of Moose Pass; and **WP22-33**, which eliminated the sealing requirement for black bear in Units 11 and 12.

The Board *adopted with modification* **WP22-22**, requesting the recognition of the customary and traditional use of caribou in Units 15B and 15C by residents of Moose Pass; **WP22-24**, requesting the recognition of the customary and traditional use of goats in Unit 15 by residents of Moose Pass; and **WP22-27**, requesting the recognition of the customary and traditional use of sheep in Unit 15 by residents of Cooper Landing. The modification for all three proposals was to remove Unit 15C.

The remaining proposals affecting the Southcentral Region appeared on the non-consensus agenda. However, for eleven of the proposals, the Board took action consistent with the Council's recommendations. 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; statewide proposal; and **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 *adopted with modification* **WP22-12**, which extended the deer season in Unit 6 to January 31 and restricted the January season harvest limit to one deer; **WP22-25b**, which established a Federal drawing permit hunt for sheep in Unit 7 with a harvest limit of one ram with full curl horn or larger, and delegated authority to the Seward District Ranger of the Chugach National Forest to close the season, set the harvest quota, the number of permits to be issued and any needed permit conditions via delegation of authority letter only; **WP22-28/29**, which shifted the moose season dates in Unit 7 remainder to August 20-September 25; **WP22-30/31**, which shifted the moose season dates in Unit 15 to August 20-September. 25; and **WP22-35**, which established a may-be-announced caribou season in Unit 11 with a harvest limit of one bull by Federal permit and delegated authority to the Wrangell-St. Elias National Park and Preserve superintendent to announce season dates, harvest quotas, and the number of permits to be issued; to define harvest areas; and to open and close the season via a delegation of authority letter only.

The Board *took no action* on **WP22-26b**, requesting that a Federal subsistence sheep hunt be established in Unit 7. The Board *rejected* **WP22-20**, requesting the recognition of the customary and traditional use of moose in Unit 15C by residents of Cooper Landing.

Board actions differed from the Southcentral Council's recommendation on one proposal on the non-consensus agenda: **WP22-36**. Additionally, the Board acted on the deferred fisheries proposal **FP21-10**. The Board's actions on these proposals 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 was noteworthy.

If you have any questions regarding the summary of the Board's actions, please contact Jessica Gill, Council Coordinator, at 907-310-6129 or jessica_gill@fws.gov

Sincerely,



Anthony Christianson, Chair
Federal Subsistence Board

Enclosure

cc: Federal Subsistence Board
Southcentral Subsistence 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.

SOUTHCENTRAL AREA WILDLIFE PROPOSALS

Regional Proposals

Wildlife Proposal WP22-36

DESCRIPTION: WP22-36 requested modifications to community harvest systems for moose and caribou in Units 11, 12, and 13. These modifications include: (1) allow community members to opt out of a community harvest system thereby retaining their individual harvest limits; (2) define the geographic boundaries of eligible communities as the most recent Census Designated Places established by the U.S. Census Bureau; (3) specify that harvest reporting will take the form of reports collected from hunters by Ahtna Intertribal Resource Commission (AITRC) and submitted directly to the land managers and the Office of Subsistence Management (OSM), rather than through Federal registration permits, joint State/Federal registration permits, or State harvest tickets; (4) set the harvest quota for the species and units authorized in the community harvest system as the sum of individual harvest limits for those opting to participate in the system; and (5) codify the community harvest systems for moose and caribou in Unit 12.

COUNCIL RECOMMENDATIONS:

Southcentral Alaska Subsistence Regional Advisory Council – **Support with modification** that the community harvest system in Unit 12 will be implemented only on Ahtna traditional use territory instead of all Federal public lands in Unit 12.

Eastern Interior Alaska Subsistence Regional Advisory Council – **Support as modified by the OSM Addendum** with **further modification** to revise the community harvest system hunt area in Unit 12.

BOARD ACTION: **Adopt with OSM modification** and an **additional Board amendment** to define the hunt area for the AITRC community harvest system in Unit 12

JUSTIFICATION: The Board adopted WP22-36 stating that adoption is necessary to fully implement the Ahtna Region community harvest system that was recently approved by the Board and is administered in cooperation with the Ahtna Intertribal Resource Commission. It will codify in regulations several provisions that were previously adopted by the Board on a temporary basis.

SOUTHCENTRAL AREA FISHERIES PROPOSALS

Regional Proposals

Fisheries Proposal FP21-10

DESCRIPTION: Proposal FP21-10 requested the Board implement a salmon subsistence fishery in the lower Copper River adjacent to the Copper River Highway with a harvest limit of 15 salmon other than Pink Salmon, with not more than five Chinook Salmon per household, using dip net, rod and reel, spear, or gaff only. This harvest limit would not be additive to the currently existing Federal subsistence permit FFPW01, or the State subsistence fishing permit in the Copper River District.

COUNCIL RECOMMENDATIONS:

Southcentral Alaska Subsistence Regional Advisory Council – **Support as modified by OSM** to add a 48-hour reporting requirement to take of salmon. However, after a joint meeting with the Eastern Interior Regional Advisory Council, the Southcentral Regional Advisory Council provided a comment in opposition to the proposal.

Eastern Interior Alaska Subsistence Regional Advisory Council – **Oppose**
After the joint meeting the Eastern Interior Alaska Subsistence Regional Advisory Council continued to oppose proposal FP21-10 and provided additional comment in opposition of the proposal.

BOARD ACTION: **Adopt with OSM modification** to include a requirement to report take of salmon to Area managers within 48 hours of harvest. **Additional Board modifications** are to delay the season start date to June 1, allow dip net and rod and reel only, and prohibit dip netting from a boat.

JUSTIFICATION: The Board voted to adopt FP21-10 as modified to provide additional opportunity for salmon harvest by Federally qualified subsistence users, primarily residents of Cordova. The annual harvest is anticipated to be so small as to have no significant effect on Copper River salmon populations or significant impacts to opportunity for upriver Federally qualified subsistence users relative to other fisheries. Conservation management actions over low salmon abundance should target where most of the harvest occurs, primarily in the State commercial fishery in marine waters and the State personal use fisheries in the Upper Copper River drainage. The joint council meeting generated several constructive suggestions that were incorporated into the modification of the proposal. With the addition of these modifications to the proposed regulation, many of the concerns expressed about overharvest should be alleviated.



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

JUL 27 2022

In Reply Refer To:
OSM 22076.KW

Richard Greg Encelewski, Chair
Southcentral Alaska Subsistence
Regional Advisory Council
c/o Office of Subsistence Management
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503-6199

Dear Chairman Encelewski:

This letter responds to the Southcentral Alaska Subsistence Regional Advisory Council's (Council) fiscal year 2021 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. The Board values this opportunity to review the issues concerning your region.

1. FP21-10 Deferral

Fisheries Proposal FP21-10 is a Southcentral Region proposal. During its Fall 2020 meeting, the Council conducted their regulatory process on this proposal with due diligence. Comments, both for and against this proposal, were substantial. The discussions and subsequent deliberation of this Council were thorough. The majority of Council members voted to support the proposal with the OSM suggested modification for the requirement to report take of salmon within 48 hours of harvest. The Council justification for its recommendation included: it provides additional harvest opportunities under ANILCA's provision for rural subsistence priority and that creation of this fishery was important for those underserved Federally-qualified subsistence users who do not own boats. Importantly, the Council felt that subsistence users should be provided the opportunity to obtain their fish and that any restrictions to address a conservation concern should first come from other user groups.

The Council later learned the Eastern Interior Alaska Subsistence Regional Advisory Council took up this proposal during their Fall 2021 meeting and they provided a comment in opposition

to this proposal to the Board.

The Board, at its January 2021 regulatory meeting, deferred action on FP21-10 because there was concern this proposal had elicited a pointed disagreement between Southcentral and Eastern Interior Regional Advisory Councils. The Board deferred action on FP21-10 until ‘such time as both Councils could meet and work to develop a compromise proposal that can be supported by all affected.’ This placed an unnecessary extra burden on Council members.

The Council has been aware of this polarizing issue for many years and has observed that it is affecting relationships between subsistence users up and down the Copper River. Although difficult, these Council members fulfilled their duties as Regional Advisory Council members and made a recommendation on this matter ‘relating to the subsistence take of fish in their region.’ The Council should not have been asked to consider this proposal again, with several new Council members, in hopes that they may change their support of this proposal.

A joint meeting between the Southcentral and Eastern Interior Regional Advisory Councils is set for mid-March 2022 to discuss possible compromises. The Council will follow through with the Board’s request to discuss and deliberate. They will try to collaborate with the Eastern Interior Council members on a compromise to address the issue outlined in the proposal. However, this Council hopes the amount of time, effort, and stress on all participants is not lost to this Board. Nor should it escape notice that almost one-half of the current Southcentral Council members are new and have not had the same opportunities of hearing testimony and presentations on this matter, nor did they participate in the original regulatory process. New Council members will be expected to digest a large amount of information, appreciate the geographic area controversy, and be prepared to offer input and recommendations on this issue with little time to prepare. This limited understanding could significantly affect the ability to debate this issue adequately and to make a recommendation that is truly best for the region.

In the future, the personal commitment expected of every Council member to prepare and attend an additional meeting should be considered before the Board defers any future proposals on the mere basis that two Councils have disagreed. Council members would prefer the Board perform its duties as the decision-making body of this program.

Response:

The topic of this new salmon fishery in the lower Copper River generated a lot of interest and discussion. When reviewed at the January 2021 Board meeting, it was clear that user groups were not all in alignment over the best way to proceed with fisheries proposal FP21-10. Your Council—which, as you noted, has deference—provided a recommendation in favor of the proposal. The Eastern Interior Council asked to review the proposal and, along with the Wrangell-St. Elias Subsistence Resource Commission, provided comments in opposition to the proposal. In deferring this proposal at that meeting, the Board was not ignoring the hard work of the Councils and did not intend to force a compromise. Rather, the Board suggested that a meeting between the two Councils could be held to discuss issues of contention regarding this

fishery proposal that might lead to some level of agreement on a path forward.

The Board greatly appreciates the efforts that both Councils made during their joint meeting in March 2022. The meeting provided important information for us to consider when we took up the proposal again in April 2022. As you know, the Board ultimately adopted the proposal with some of the modifications discussed at your joint meeting. We acknowledge comments that you have provided in this annual report and will keep them in mind for future decision making.

2. Customary and Traditional Use Determinations (C&T)

The Council has concerns about the process currently being used to make C&T determinations and its relation to current and anticipated subsistence harvests. The Council found it very confusing during its fall 2021 regulatory meeting to consider and address the many issues presented in proposals. The manner in which they were written, analyzed, and combined made it very difficult for the Council to adequately concentrate on each proposal. For instance, wildlife proposal WP22-16/17/18/19/21/22/23/24/26a was a combination of proposals regarding the harvests of moose, caribou, goat, and sheep resources for the residents of Moose Pass in four different game management units. In addition, for some of these C&T proposals, the Council felt there was a lack of information or substantial evidence to make an adequate and well-supported C&T determination.

The Council suggests that the Office of Subsistence Management make further efforts (with additional funding) to do research to get the information/evidence necessary for the Council to make a recommendation on proposed C&T determinations. The Council also suggests that when an area is up for C&T determination, that the effect this designation may have on surrounding areas is also considered. C&T analyses should be wholly inclusive and should address all effects. A significant amount of additional C&T proposals are anticipated in the future on resources that, in some cases, are declining. It is important that a review of the strategy to address C&T determinations be done now so that any exacerbation of declining resource populations can be avoided. The Regional Advisory Councils need to receive the most comprehensive analyses with the most current data possible to make an effective decision regarding C&T determinations.

Response:

The Office of Subsistence Management's (OSM) intent was not to cause confusion by combining multiple proposals into one analysis as with WP22-16/17/18/19/21/22/23/24/26a. OSM staff analysts often combine proposals when they contain similar or identical data. The justification for this is to reduce the number of individual analyses, save time for staff, and reduce printing costs. Based on your comments the Board and OSM now understand that this decision made it difficult for the Council to adequately concentrate on each proposal. OSM will take your comments into consideration when combining proposals in the future and will put the emphasis on making analyses easy to understand for both the Councils and the public. Second, the Board and OSM understand that the Council needs adequate information and

substantial evidence in analyses to make well-supported recommendations on proposals. OSM does not conduct research or collect primary data, instead, it incorporates available data from other research institutions or agencies in analyses. To help fill data gaps, the Board encourages the Council to promote their needs to research institutions. One such opportunity to fill data gaps is the Federal Fisheries Resource Monitoring Program (FRMP), which funds projects that focus on subsistence fisheries on Federal public lands and waters. The Council can list the fisheries-related research it would like to have done in its region in the Priority Information Needs (PIN). Those research proposals that address the Council's Priority Information Needs are considered for FRMP funding. The Council can inform agencies at their Council meetings and the Board through their annual reports about wildlife research they may feel is needed to inform regulatory decision-making.

Third, the Board and OSM appreciates that the Council wants a comprehensive understanding of the effects of a proposal. OSM staff analyzes the direct effects of each proposal and the review process provides scientists and regional land managers the opportunity to comment on and suggest additional information or revisions. The Council may also benefit from comments and testimony submitted by members of the public and through Tribal consultations. Council meetings provide yet another opportunity for public testimony, which informs the Council and helps you make recommendations and comments to the Board. OSM staff considers the written public comments received prior to the established deadlines and the Council's recommendations to the Board and incorporates them into the staff analyses.

The Board recognizes that the process for identifying customary and traditional (C&T) uses must address the needs of rural community members and the subsistence way of life in its local context. The Board also acknowledges the Council's apprehension over expanding the pool of Federally qualified subsistence users in a region where resources are limited. However, the Board does not use C&T determinations for resource management or for restricting harvest. If a conservation concern exists, the Board addresses that concern through harvest limits or season restrictions. The Board may also close Federal public lands and waters to other uses and users (personal use, sport and commercial use) before limiting subsistence opportunities for rural residents. If further restrictions are necessary, then the Board may prioritize use among Federally qualified subsistence users through a section 804 analysis in times of shortage or in the face of increasing competition between users (36 CFR 242.17 and 50 CFR 100.17). The Board greatly appreciates the Council's comments on and interest in the C&T use determination process and looks forward to continuing the collaborative effort to make determinations.

3. Subsistence Use Amounts

The Council recognizes declining populations of fish and wildlife throughout the State. It recognizes the need for a review of Federal Subsistence Use Amounts to identify specific needs and subsistence uses for fish and wildlife. The Council requests that supporting staff substantiate the shortage of fish and wildlife statewide and then provide information on how Subsistence Use Amounts may be reviewed and changed to support subsistence users' needs and priorities during these periods of declining fish and wildlife populations.

The Council received a request from Ahtna Intertribal Resource Commission (AITRC) to put this item in its Annual Report and the Council is attaching that letter for full details. AITRC encouraged this Council to demand more proactive Federal subsistence management presence and activities regarding sustainable management of salmon fisheries on the Copper River. There was a request for this Council to develop Federal subsistence use amounts findings to include in this report to the Board; however, the Council cannot fulfill such a request without assistance from the Office of Subsistence Management (OSM). AITRC seeks to have Copper River Sockeye and Chinook Salmon Federal subsistence use amounts findings made on the anticipated Federal subsistence needs. There was no time for the Council to discuss this at its last regulatory meeting due to the large amount of required action items that the Council had to address. Therefore, the Council asks that the Board direct OSM to provide information at its winter meeting advising the Council how it may follow through on such requests. The Council would like to support efforts to conserve salmon on the Copper River and would like to know if Subsistence Use Amounts is a viable and productive way to move towards stronger Federal management of salmon on the Copper River.

Response:

The Board appreciates and shares your Council's concern regarding declining harvests and challenges to subsistence statewide. In particular, the Board recognizes your support for the conservation of salmon in the Copper River and other watersheds of your region. However, subsistence use amounts is not applicable to Federal management. ANILCA has no such standard. Additionally, the Secretaries and the Board have shown no inclination to follow the State in that methodology, nor would applying that methodology follow the intent of Congress. Title VIII of ANILCA and its supporting regulations provide a priority for nonwasteful subsistence uses of fish and wildlife and other renewable resources on public lands of Alaska. ANILCA goes on to say that it provides opportunity for rural residents engaged in a subsistence way of life to do so.

ANILCA does not provide for the successful harvest of resources or establish certain amounts of harvest; it does, however, provide an opportunity for take and a priority over other user groups, while protecting the continued viability of all wild renewable resources in Alaska.

4. Jurisdictional Issue to Provide for Federally Qualified User Harvest

This report topic specifically addresses current and anticipated subsistence needs: Opportunity for Federally-qualified users to harvest finfish and shellfish in the salt waters of Prince William Sound (PWS) area. The Council recognizes that rural residents of this area have historically utilized crabs, shrimp, and other items found in the tidal zone and understands that there is a need for subsistence harvest of saltwater resources at the Federal level similar to what occurs in other communities throughout the state. These PWS rural and Tribal residents live within or on the edge of the Chugach National Forest (where land and freshwater streams are 'Federal public lands') and have hunted and fished upon these lands for decades. However, when they

wish to dig a clam, they are only able to dig clams according to State regulations. They can put a shrimp pot out one-half mile from shore but only under State regulations. Everything from shellfish, octopus, and crabs to the rockfish harvest limit is under State regulations.

Subsistence users are experiencing conflicts with other users for shellfish, octopus, shrimp, crab, finfish, and rockfish. Under State regulations, which provides no priority for Federally-qualified subsistence users, the allowable catch of these resources is limited and because of competing commercial and sport interests, subsistence users are not able to meet their subsistence harvest needs. The Council feels this is a disservice to subsistence users in this area.

There is a substantial need to shift jurisdiction in saltwater by using a co-management strategy in order to provide opportunities for subsistence users to obtain food. The Council would like to know what policies, standards, guidelines, and regulations (North Pacific Fishery Management Council, NOAA – National Marine Fisheries Service, etc., ANILCA, extra-territorial jurisdiction) can be explored to establish dual jurisdiction (Federal and State) for these resources to provide a meaningful opportunity for subsistence and personal use harvest.

Response:

The Board recognizes the tremendous value and importance of marine resources to the Federally qualified subsistence users of Prince William Sound. Your Council has stressed the significance of these resources before, and your conviction that Federal management of these resources would best serve the local subsistence way of life. As you already know, the Federal Subsistence Management Program provides a subsistence priority for the harvest and use of most fish and wildlife resources on Federal public lands and waters in Alaska as authorized by Title VIII of ANILCA. In Prince William Sound there are no Federal public waters in the marine environment.

There are other Federal management programs that govern subsistence use for rural and/or Tribal residents of marine resources in Prince William Sound and other waters (National Marine Fisheries Service, the International Pacific Halibut Commission, and the Marine Mammal Protection Act), but none of these agencies have management jurisdiction over the resources that the Council has expressed a subsistence need to use. In addition, the management of these resources is outside of Board authority and none would trigger dual jurisdiction or an aligned Federal/State regulatory process for subsistence management in Prince William Sound.

However, there is a process for petitioning the Secretaries of the Interior and Agriculture (Secretaries) to exert regulatory authority over activities on *non-Federal lands* under State law (State managed commercial, sport, personal use, and subsistence fishing) to protect subsistence activities on *Federal lands* (see 43 CFR part 14). Although the Secretaries have never exercised this authority, they can consider petitions to exercise control over hunting, fishing, or trapping activities occurring on *non-Federal lands* when such petitions indicate that those activities may be interfering with subsistence hunting, fishing, or trapping on *Federal public lands and waters* if they result in a failure to provide the subsistence priority as specified in Title VIII of ANILCA.

5. Fisheries Resource Monitoring Program (FRMP) – Research and Funding

There are many key FRMP projects that will provide vital information on fish stocks in the Southcentral region. The Council is concerned about the shortage of funds for these projects in recent years as it seems the money set aside for these projects is reduced with each passing year. The Council would like to see the Federal Subsistence Management Program revise research and monitoring projects to include work that could be done by Tribes and regional organizations. Cooperative agreements with Native organizations and Tribal entities would better meet the intent of ANILCA. There is more competition for funding FRMP projects, and the Council would like to see more projects awarded to local Native and Tribal organizations as they have the traditional ecological knowledge to offer in addition to the skills required to successfully accomplish the FRMP project tasks. Further, the State of Alaska should develop their own programs for research and monitoring instead of competing with Tribes and local organizations for FRMP monies. The Council requests that the Board instruct OSM to investigate options for assisting local entities in receiving FRMP funds to continue critical research and monitoring of fish stocks and to report these options to the Council.

Response:

The Board recognizes the need for continued funding of critical fisheries research in the Southcentral Region. The total available funding for the FRMP has risen during recent cycles with over \$3 million allocated to the program for new projects in 2022. The guideline allocation for the Southcentral Region is 5% of available Department of the Interior FRMP funds and 32.5% of available Department of Agriculture FRMP funds. Since the inception of the FRMP in 2000, a total of 53 projects have been undertaken in the Southcentral Region for a total of \$16 million. For Southcentral Region primary recipients of funding have included, Alaska Rural Organizations, which conducted 17 projects, Department of the Interior conducted 18 projects, State of Alaska conducted 13 projects, U.S. Department of Agriculture conducted 3 projects, and other organizations conducted 2 projects. A majority of the State and Federal projects have partnered with co-investigators from Alaska Rural Organizations. These type of partnerships with rural organizations is encouraged during the application and review process. OSM also administers the Partners for Fisheries Resource Monitoring Program and provides salary money for a biologist or social scientist. The Native Village of Eyak has received funding through both of these programs that provided the salary for a biologist and project money to implement fisheries research in the Southcentral Region. Two proposals were submitted for the Southcentral Region for the 2022 funding cycle, and the Native Village of Eyak was successful at acquiring funding in 2020 and 2022 to continue their project on the Copper River that uses fish wheels to estimate the abundance of adult Chinook Salmon and a sonar project on the Klutina to enumerate adult Chinook Salmon.

The FRMP is a competitive process that funds research that is most likely to meet regional priority information needs. Proposals are evaluated on the following criteria: Strategic Priority, Technical and Scientific Merit, Investigator Ability and Resources, Partnership and Capacity

Building, and Cost/Benefit. Tribal organizations have been very competitive in the funding process because they often provide valuable data on traditional ecological knowledge. Another option available to Tribes and local organizations is to consider applying to the Partners for Fisheries Monitoring Program. This program assists rural organizations by providing funding for the salaries of fisheries biologists, social scientists, and educators to build capacity within the recipient organizations. This option can open new pathways for organizations to conduct research in a meaningful way and be engaged in the management of the fisheries. This can also strengthen capacity to submit investigation plans to the FRMP. The Board continues to encourage OSM staff to work closely with Tribal entities and provide outreach on the funding mechanisms that allow the organization to grow and build capacity to conduct fisheries research.

More information on the FRMP can be found at <https://www.doi.gov/subsistence/frmp>

More information on the Partners for Fisheries Monitoring Program can be found at <https://www.doi.gov/subsistence/partners>

6. Climate Change

The Council would like more information and research on the impacts that ocean acidification and other recent effects of climate change have had on the fish stocks in the Southcentral region. The last two years of limited salmon runs have been quite alarming in various parts of the region. The Council would like to know if an organized effort or an FRMP project can be put forward to gather specific data that may explain the drastic changes observed in lower stocks for different salmon species, changes in salmon run timing, and various effects on shellfish. This would be a good project for Native/Tribal organizations where local traditional knowledge could be incorporated. The Council would support an FRMP research on finfish and shellfish in Prince William Sound with priorities on understanding the effect of ocean acidification on those resources. The information gathered from such a project would be crucial for the management decisions on the Copper River and other areas of Prince William Sound.

Response:

The Board shares the Council's concern over the impact of climate change and related processes of ocean acidification on fish, shellfish, and key freshwater and marine habitats essential to the continuation of the subsistence way of life in the Southcentral Region. As the Council has previously noted, weather and environmental conditions have become more unpredictable, deviating from historical patterns over the past ten years. One of the direct impacts of climate change is ocean acidification through increased levels of atmospheric carbon dioxide. These concerns have culminated in the development of research, monitoring, and outreach efforts through several groups, including: the Alaska Marine Conservation Council, the Ocean Acidification Research Center at the University of Alaska Fairbanks, and the Alaska Ocean Acidification Network.

A recent climate change risk assessment for Alaska's fisheries sector (Mathis et al. 2015) suggests that ocean acidification will increase, directly impacting the ability of marine invertebrates, such as crabs and clams, to create hardened shells. This may cause declines in larval survival and lead to reduced recruitment. Direct impacts to finfish and marine mammals are less clear at this point, but changes in the food webs for these species are expected. This study found communities in southern rural Alaska, such as those in the Southcentral Region, to be most at risk due to subsistence reliance on nearshore species, lower industry diversity, economic dependence on fishery harvests, lower income, and higher cost of food.

Another recent study (Shoen et al. 2017) examined the issues that climate and environmental change might cause for Pacific salmon, particularly in the Kenai River drainage. Predicted changes include glacial retreat, warmer waters, increased risk of flooding, and additional human development and traffic along waterways. The study notes that development in the watershed increased 20-fold between the 1980s and 2013, impacting wetlands that provide nutrients to streams and buffer stream flows. Development in the watershed has also been implicated in the introduction of invasive species such as Northern Pike and Elodea. Yet, the study also notes that salmon are highly adaptable and that it is difficult to predict exactly how they will respond to these climate or other environmental change processes. The study also highlights many factors that influence salmon sustainability at the local level (e.g. restoration efforts, enforcement of habitat protections, coordination of stakeholders and managers, etc.).

Still, processes of ocean acidification could be a factor contributing to the low salmon runs and the impacts to shellfish on the Copper River and within Prince William Sound over the past two years. Unfortunately, OSM and its collaborators do not have further information to report on these important questions yet. COVID restrictions during the last two years delayed the timing of many FRMP projects. There are currently several ongoing FRMP projects that address some of the Council's fisheries research interests related to the annual abundance, composition, and escapement of Sockeye and Chinook salmon in the Copper River. FRMP project 20-501 is currently examining Chinook and Sockeye salmon escapement and run timing on the Klutina River. FRMP project 20-502 looks at the age composition and escapement of Sockeye and Chinook salmon in Tanada Creek. FRMP 22-504 will continue to report on the annual in-river abundance of Chinook Salmon at Baird Canyon.

The Board, however, welcomes additional FRMP research proposals for projects that will more directly address the Council's stated interests regarding changes in subsistence fishery resources in the context of climate change. The Board requests the Council take this into account when developing priority information needs for the next call for FRMP proposals.

The Board also notes that the Council can invite representatives from State, Federal, non-governmental, academic, and other research organizations to give presentations on climate change effects and mitigation at its regular meetings. Some organizations to consider include:

- Alaska Center for Climate Assessment and Policy
- Alaska Climate Adaptation Science Center

- Alaska Department of Environmental Conservation: Climate Change in Alaska
- Experts identified through the U.S. Climate Resilience Toolkit
- Prince William Sound Science Center
- Scenarios Network for Alaska + Arctic Planning
- The Alaska Native Tribal Health Consortium
- Conservation of Arctic Flora and Fauna (CAFF)
- Exchange for Local Observations and Knowledge in the Arctic (ELOKA)

The Board appreciates the Council's comments and testimonies on recent changes in subsistence fisheries related to climate change. The Council members and their representative communities are an important source of traditional ecological knowledge and local observations of environmental change. Therefore, the Board hopes that the Council will continue to document its observations of changes through annual reports and testimony at Council and Board meetings. Documenting local observations are also part of most Harvest Monitoring and Traditional Ecological Knowledge reports submitted through the FRMP and are often included in research and resource management reports by State and Federal agencies. OSM makes a consistent effort to include this information into its fish and wildlife proposal analyses.

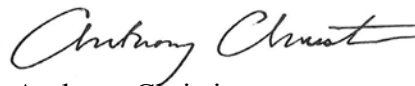
References cited:

Mathis, J.T, S.R. Cooley, N. Lucy, S. Colt, J. Ekstrom, T. Hurst, C. Hauri, W. Evans, J.N. Cross, and R.A. Feeley. 2015. Ocean Acidification Risk Assessment for Alaska's Fishery Sector. *Progress in Oceanography*. 136: 71-91.

Schoen, E.R., M.S. Wipfli, E.J. Trammell, D.J. Rinella, A.L. Floyd, J. Grunblatt, M.D. McCarthy, B.E. Meyer, J.M. Morton, J.E. Powell, A. Prakash, M.N. Reimer, S.L. Stuefer, H. Toniolo, B.M. Wells, and F.D.W. Witmer. 2017. Future of Pacific Salmon in the Face of Environmental Change: Lessons from One of the World's Remaining Productive Salmon Regions. *Fisheries*. 42(10): 538-553.

In closing, I want 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 the subsistence users of the Southcentral Alaska Region are well represented through your work.

Sincerely,



Anthony Christianson
Chair

cc: Southcentral Alaska 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

FP23–07 Executive Summary	
General Description	FP23-07 requests to restrict harvest of Chinook Salmon to only fish less than 34 inches and to prohibit the use of bait in the Federal rod and reel fishery during the Kenai River Chinook Salmon fishery (January 1- July 31). <i>Submitted by: Alaska Department of Fish and Game.</i>
Proposed Regulation	<i>See pages 41 to 44 of this book for proposed regulations.</i>
OSM Preliminary Conclusion	Oppose FP23-07
Southcentral Subsistence Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	None

DRAFT STAFF ANALYSIS
FP23-07

ISSUES

Proposal FP23-07, submitted by the Alaska Department of Fish and Game (ADF&G), requests the Federal Subsistence Board (Board) revise the Federal subsistence fishing regulations for the Kenai River Chinook Salmon in the Cook Inlet Area (§ ____.27(e)(10)) by restricting harvest of Chinook Salmon to only fish less than 34 inches in the waters upstream of Slikok Creek, a tributary to the Kenai River located approximately 19 river miles upstream from the mouth at Cook Inlet. Additionally, the proponent requests to prohibit the use of bait in the Federal rod and reel fishery in waters upstream of Slikok Creek during the Kenai River Chinook Salmon fishery (January 1 – July 31). Two Federal rod and reel fisheries are affected by this proposal; one that runs from January 1 to July 15 and one that runs from July 16 to August 31 (previously named early- and late-run respectively). The proposed regulation change covers all of the first date range (January 1 to July 15), and two weeks of the second (beginning July 16) but truncates the second fishery by removing all harvest dates in August.

DISCUSSION

The proponent states that this administrative change will align Federal subsistence regulations for Kenai River Chinook Salmon gillnet, dip net or rod and reel, and the general rod and reel only Federal subsistence fisheries with the established size limits for State sport fishing regulations. The current Federal subsistence fishing regulation allows for harvest of Chinook Salmon in a slot limit of less than 46 inches or 55 inches and longer, whereas the current State sport fish regulation is a maximum size of 34 inches (defined as the length from the tip of the snout to the tip of the total, i.e., total length; [5 AAC 75.995(a)(11)]. State regulations prohibit the use of bait in waters upstream of Slikok Creek during the Chinook Salmon fishery (January 1 – July 31). The proponent asserts that the alignment of federal subsistence and state sport fish regulations is meant to update the federal regulations to reflect the most up to date changes to the management of Kenai River Chinook Salmon for a large fish goal and the quality of escapement.

Existing Federal Regulation

§ ____.27(e)(10) Cook Inlet Area

*(iii) Seasons, harvest limits, and methods and means for Kenai River fisheries.
Household annual limits for salmon in Kenai River fisheries are as follows:*

<i>Species</i>	<i>Number of fish allowed for each permit holder</i>	<i>Additional fish for each household member</i>	<i>Additional provisions</i>
****	****	****	****
<i>Chinook salmon (July 1 through July 15)</i>	2	1	<i>For the Kenai River community gillnet fishery described under paragraph (e)(10)(iii)(B) of this section</i>
<i>Chinook salmon (July 16 through August 31)</i>	10	2	
****	****	****	****

(A) Kenai River dip net or rod and reel; salmon

(2) You may take sockeye, Chinook, coho, and pink salmon through a dip net or rod and reel fishery at two specified sites in the Kenai River below Skilak Lake and as provided in this section.

(3) Fishing seasons are as follows:

<i>Species</i>	<i>Season</i>	<i>Location</i>
****	****	****
<i>Chinook salmon</i>	<i>July 16-September 30</i>	<i>Kenai River sites only</i>
****	****	****

(B) Kenai River gillnet; salmon

** * * **

(2) Fishing will be allowed July 1 through August 15 and September 10-30 on the Kenai River unless closed or otherwise restricted by Federal special action. The following conditions apply to harvest in the Kenai River community gillnet

(iii) Additional harvest restrictions for this fishery are as follows:

<i>Species</i>	<i>Period</i>	<i>Harvest</i>	<i>Fishery limits</i>
<i>* * * *</i>	<i>* * * *</i>	<i>* * * *</i>	<i>* * * *</i>
<i>Chinook salmon less than 46 inches in length or greater than 55 inches in length</i>	<i>July 1-15</i>	<i>Fish may be retained if the most current preseason forecast from the Alaska Department of Fish and Game projects the in-river run to be within or above the optimal escapement goal range for early-run Chinook salmon; otherwise, live fish must be released</i>	<i>Fishery will close until July 16 once 50 Chinook salmon have been retained or released.</i>
<i>Chinook salmon</i>	<i>July 16-August 15</i>		<i>Fishery will close prior to August 15 if 200 Chinook salmon have been retained or released between July 16 and that date. Fishery will reopen September 10-30 for species available at that time</i>

* * * *	* * * *	* * * *	* * * *
---------	---------	---------	---------

(C) Kenai River rod and reel only; salmon

(2) Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.540), except for the following harvest and possession limits:

<i>Species</i>	<i>Size</i>	<i>Limits</i>
<i>Chinook salmon (January 1 through July 15)</i>	<i>Less than 46 inches or 55 inches and longer</i>	<i>2 per day and 2 in possession</i>
<i>Chinook salmon (July 16 through August 31)</i>	<i>20 inches and longer</i>	
* * * *	* * * *	* * * *

(i) In the Kenai River below Skilak Lake, fishing is allowed with up to two baited single or treble hooks June 15 through August 31.

Proposed Federal Regulation

§ __.27(e)(10) Cook Inlet Area

(iii) Seasons, harvest limits, and methods and means for Kenai River fisheries. Household annual limits for salmon in Kenai River fisheries are as follows:

<i>Species</i>	<i>Number of fish allowed for each permit holder</i>	<i>Additional fish for each household member</i>	<i>Additional provisions</i>
* * * *	* * * *	* * * *	* * * *

<i>Chinook salmon (July 1 through July 15)</i>	<i>2</i>	<i>1</i>	<i>For the Kenai River community gillnet fishery described under paragraph (e)(10)(iii)(B) of this section</i>
<i>Chinook salmon (July 16 through August 31)</i>	<i>10</i>	<i>2</i>	
<i>****</i>	<i>****</i>	<i>****</i>	<i>****</i>

(A) Kenai River dip net or rod and reel; salmon

(2) You may take sockeye, Chinook, coho, and pink salmon through a dip net or rod and reel fishery at two specified sites in the Kenai River below Skilak Lake and as provided in this section.

(3) Fishing seasons are as follows:

<i>Species</i>	<i>Season</i>	<i>Location</i>
<i>****</i>	<i>****</i>	<i>****</i>
<i>Chinook salmon</i>	<i>July 16- July 31 September 30</i>	<i>Kenai River sites only</i>
<i>****</i>	<i>****</i>	<i>****</i>

(B) Kenai River gillnet; salmon

(2) Fishing will be allowed July 1 through August 15 and September 10-30 on the Kenai River unless closed or otherwise restricted by Federal special action. The following conditions apply to harvest in the Kenai River community gillnet

(iii) Additional harvest restrictions for this fishery are as follows:

<i>Species</i>	<i>Period</i>	<i>Harvest</i>	<i>Fishery limits</i>
<i>***</i>	<i>***</i>	<i>***</i>	<i>***</i>
<i>Chinook salmon less than 34 inches 46 inches in length or greater than 55 inches in length</i>	<i>July 1-15</i>	<i>Fish may be retained if the most current preseason forecast from the Alaska Department of Fish and Game projects the in-river run to be within or above the optimal escapement goal range for early-run Chinook salmon; otherwise, live fish must be released</i>	<i>Fishery will close until July 16 once 50 Chinook salmon have been retained or released.</i>
<i>Chinook salmon less than 34 inches in length</i>	<i>July 16-August 15</i>		<i>Fishery will close prior to August 15 if 200 Chinook salmon have been retained or released between July 16 and that date. Fishery will reopen September 10-30 for species available at that time</i>
<i>***</i>	<i>***</i>	<i>***</i>	<i>***</i>

(C) Kenai River rod and reel only; salmon

(2) Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.540), except for the following harvest and possession limits:

<i>Species</i>	<i>Size</i>	<i>Limits</i>
<i>Chinook salmon (January 1 through July 31 15)</i>	<i>Less than 34 inches in length 46 inches or 55 inches and longer</i>	<i>2 per day and 2 in possession</i>
<i>Chinook salmon (July 16 through August 31)</i>	<i>20 inches and longer</i>	<i>2 per day and 2 in possession</i>
<i>* * * *</i>	<i>* * * *</i>	<i>* * * *</i>

*(i) In the Kenai River below Skilak Lake, fishing is allowed with **only one unbaited, single hook, artificial lure January 1 – July 31** ~~up to two baited single or treble hooks June 15 through August 31.~~*

Existing State Regulation

In 1992, the State classified most of the Cook Inlet Area, including the Kenai and Kasilof River drainages, as part of the Anchorage-Matsu-Kenai Nonsubsistence Area (5AAC 99.015(3)). The only State subsistence fisheries in Cook Inlet occur in areas that are not accessible from the road system, including the Tyonek, Windy Bay, Port Chatham, and Port Graham subdistricts, as well as portions of Seldovia Bay and the Yentna River drainage. The State’s subsistence priority does not apply on the Kenai Peninsula, and the Alaska Board of Fisheries may not authorize subsistence fisheries in this area. Under State regulations, personal use fisheries and educational fishery permits provide opportunities for harvesting fish with gear other than rod and reel in nonsubsistence areas.

5 AAC 57.120. General provisions for seasons, bag, possession, annual, and size limits, and methods and means for the Kenai River Drainage Area

(a) Unless otherwise specified in 5 AAC 57.121 - 5 AAC 57.123 or by an emergency order issued under AS 16.05.060, the following are the general seasons, bag, possession, annual, and size limits, and methods and means that apply to sport fishing for finfish in the Kenai River Drainage Area:

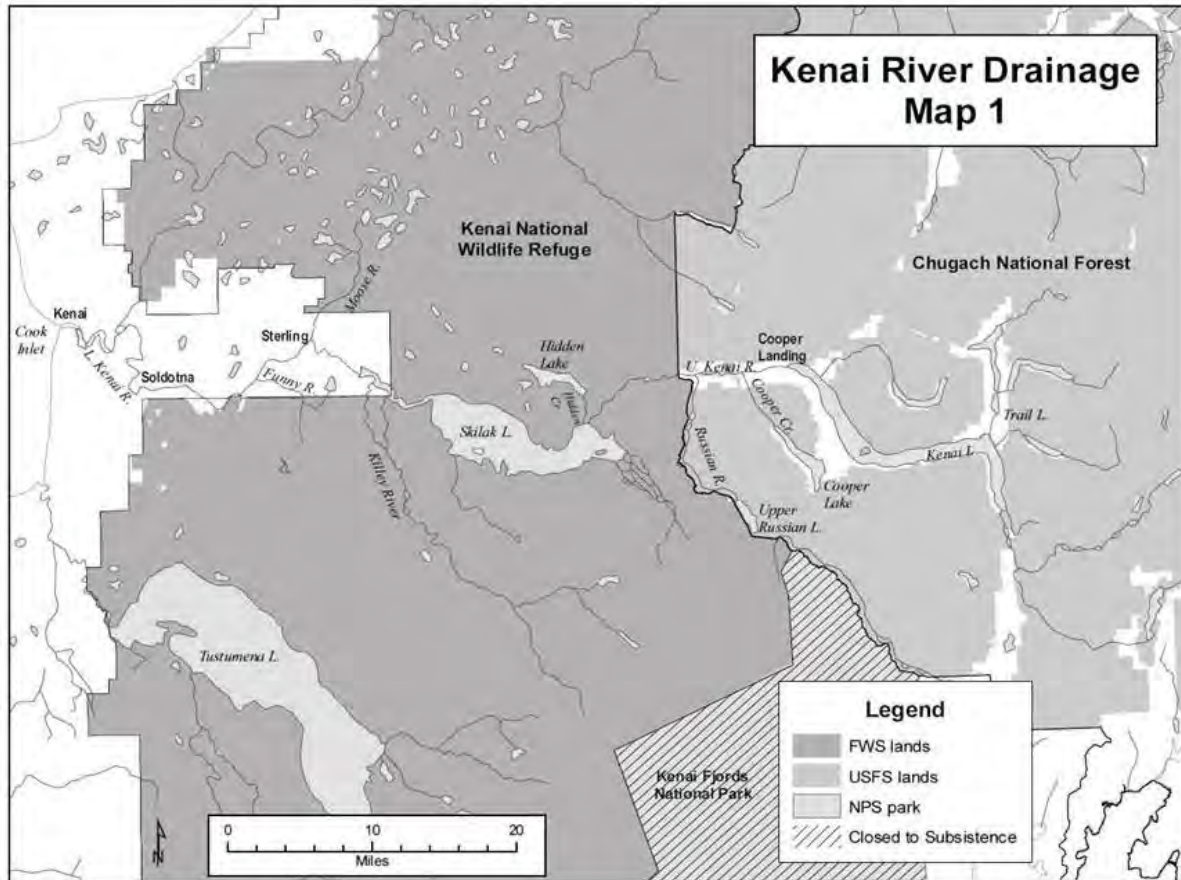
(2) king salmon 20 inches or greater in length, as follows:

(A) may be taken only from January 1 - July 31, in the Kenai River from its mouth upstream to an ADF&G regulatory marker located at the outlet of Skilak Lake, with a bag and possession limit of one fish, as follows:

(i) from January 1 - June 30, from its mouth upstream to an ADF&G regulatory marker located at the outlet of Skilak Lake, and from July 1 - July 31, from an ADF&G regulatory marker located approximately 300 yards downstream from the mouth of the Slikok Creek upstream to an ADF&G regulatory marker located at the outlet of Skilak Lake, only king salmon that are less than 34 inches in length as measured from tip of snout to tip of tail may be retained;

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” are defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3(b). Federal public waters under consideration include all waters of the Kenai River within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge and Chugach National Forest (**Map 1**). This includes Kenai Lake and its tributaries and all water downstream to the confluence of the upper branch of the Killey River (approximately RM 45.5), the mainstem Kenai River between RM 26.5 and 29 (known locally as Moose Range Meadows), and most of the upper reaches of tributaries below Skilak Lake including the Moose, Killey and Funny Rivers. The Kenai River Watershed encompasses more than 2,000 square miles of which approximately 91% lies within Federal public lands and waters (54% within Kenai Wildlife Refuge, 37% within Chugach National Forest), and the remaining 9% on State or private land (U.S. Fish and Wildlife Service Region 7 2010:1-14; Jones and Kukkonen 2017).



Map 1. Extent of Federal public waters in and around the Kenai River, Alaska.

Customary and Traditional Use Determinations

Residents of the communities of Cooper Landing, Hope, and Ninilchik have a customary and traditional use determination for all fish within the Kenai Peninsula District, waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest (Kenai River area).

Regulatory History

Prior to 1952, freshwater streams in the Kenai Peninsula were open to subsistence fishing. In 1952, as part of efforts to rebuild salmon runs, all streams and lakes of the Kenai Peninsula were closed to subsistence fishing under Territory of Alaska regulations. Only rod and reel fishing was allowed for “personal use” (Fall et al. 2004).

Sport and personal use fisheries in the Kenai River are intensively managed by ADF&G through a series of management plans. These plans provide goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and instructions for allocation between competing fisheries.

There are two plans that direct the management of Chinook Salmon in the Kenai River: the Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 56.070), and the Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359). These plans, which are a means to ensure adequate escapement and provide management guidelines for the department, outline general regulations for the Chinook Salmon sport fishery (5 AAC 57.120) using dates and river sections to specify when and where fishing can occur instead of delineating by early- or late-run stocks.

Most of the initial Federal subsistence fishing regulations for the Kenai River were put in place during the period of 2006 – 2008 and were based on plans that mirrored State regulations, conservation efforts, and management. The fisheries in this drainage were most recently updated to include a community gillnet fishery for the residents of Ninilchik through adoption of Proposals FP15-10 and FP17-10 and through Board approval and publication of the Cook Inlet Final Rule (FSB 2015, FSB 2017, FSB 2019, 84 FR 39188).

Current Events Involving the Species

The community of Moose Pass, (defined as including the census designated places of Moose Pass, Crown Point, and Primrose) received rural status in 2021. Currently proposal FP23-08/09/12 submitted to the 2023-2025 regulatory cycle is under review for Moose Pass be added to the customary and traditional use determination for all fish in the Kenai Peninsula district waters north of and including the Kenai River.

Biological Background

Chinook Salmon abundance in the Kenai River and throughout Alaska has been decreasing since around 2007. Some stocks are also exhibiting declining trends in size and age, including Kenai River Chinook Salmon that spawn on the Kenai National Wildlife Refuge, either in tributary streams (Boersma and Gates 2016) or the main-stem Kenai River (Lewis et al. 2015). Several possible factors have been identified as potential drivers of this downward trend in abundance, including changing ocean conditions resulting in poor juvenile survival and growth, size-selective harvest, competitive interactions, and changing environmental conditions, but the evidence is not conclusive for a specific cause (Lewis et al. 2015).

Early-Run Chinook Salmon

Early-run Chinook Salmon enter the Kenai River from about late-May through late-June. From 2018 – 2022 the average date for the earliest detected early-run large Chinook Salmon to pass through the ADF&G ARIS sonar was May 20 (ADFG 2022b). Most early-run Chinook Salmon spawn in Kenai River tributaries below the outlet of Skilak Lake, and most of these spawners are bound for the Killey and Funny rivers. In general, about 80 percent of the early-run Chinook Salmon spawn in either the Funny or the Killey Rivers, while only about 7% of all early-run Chinook Salmon spawn in tributaries above Skilak Lake (Burger et al. 1983, Bendock and Alexandersdottir 1992). In the mainstem Kenai

River, staging behavior (preparing for spawning) generally runs from early- to mid-July, with most spawning occurring from mid-July through August.

In 2017, the ADF&G amended the Kenai River Chinook Salmon escapement goals based on large Chinook Salmon (fish greater than 75 centimeters mid-eye-to-tail-fork-length or approximately 34 inches total length as measured from tip of snout to tip of tail). The optimal escapement goal (OEG)¹ range for early-run Chinook Salmon was 3,900 to 6,600 large Chinook Salmon. Escapement is estimated using test netting at River Mile 9, sonar equipment located at River Mile 14, and sport angler harvest surveys.

The spawning escapement of large Chinook Salmon for the years 2006 – 2021 averaged 4,107 fish, with a range of 1,601 fish in 2013 to 6,725 in 2017. The spawning escapement in 2020 was 2,439 large Chinook Salmon and in 2021 was 4,036 large Chinook Salmon (ADF&G 2022a). The 2022 pre-season forecast for large early-run Chinook Salmon was for a total run of 4,272 fish. The total run forecast is within the OEG and sustainable escapement goal (SEG)² range of 3,900 to 6,600 and 2,800 to 5,600 large Chinook Salmon, respectively. As of June 30, 2022, the cumulative ARIS sonar estimate was 2,051 large Chinook Salmon (ADF&G 2022b). The 2022 preliminary spawning escapement estimate of 2,047 and total inriver run estimate of 2,052 large fish did not achieve the OEG or SEG (ADF&G 2022c).

The State's *Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan* (5 AAC 57.160) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. This plan also tries to ensure that the age and size composition of the harvest closely approximates that of the run. The State manages other fisheries to minimize the harvest of this run. The commercial and personal use fisheries open after most early-run Chinook Salmon have entered the Kenai River. The Kenaitze Indian Tribe's educational fishery has historically had a seasonal limit of 300 Chinook Salmon, but in 2014 the limit was decreased to 50 Chinook Salmon to conserve returning fish retained.

All sport fishing for early-run Chinook Salmon in the Kenai River occurs below Skilak Lake. Only Chinook Salmon less than 34 inches can be retained in the sport fishery.

¹ An optimum escapement goal, which may be expressed as a range, allows for sustainable runs based on biological needs of the stock and ensures healthy returns for commercial, sport, subsistence, cost-recovery, and personal use harvests. Optimum escapement goals are set by the State of Alaska Board of Fisheries (ADF&G 2016a).

² A sustainable escapement goal is a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a biological escapement goal cannot be estimated due to the absence of a stock specific catch estimate; the SEG is the primary management objective for the escapement, unless an optimal escapement goal or inriver run goal has been adopted by the State of Alaska Board of Fisheries, and will be developed from the best biological information; the SEG will be determined by the Alaska Department of Fish and Game and will be stated as a range that takes into account data uncertainty; the Department will seek to maintain escapements within the bounds of the SEG (from 5 AAC 39.222(f)) (ADF&G 2016a).

Late-Run Chinook Salmon

Late-run Chinook Salmon enter the Kenai River from about late-June through late-July. The sonar operations at River Mile 14 begin on May 16 and cease approximately August 20. Most late-run Chinook Salmon spawn in the mainstem Kenai River. An estimated 20 to 40 percent spawn between River Mile 10 and the Soldotna Bridge at River Mile 21 (ADF&G 2016c), more than half between the Soldotna Bridge and the outlet of Skilak Lake, and about 9% of the total late run spawns within or above Skilak Lake (Burger et al. 1983, Hammarstrom et al. 1985, Bendock and Alexandersdottir 1992). In the mainstem Kenai River, staging behavior generally runs from late-July to mid-August, with most spawning occurring from mid-August to mid-September.

The optimum escapement goal (OEG) for late-run Chinook Salmon is 15,000 to 30,000 fish. As with the early run, escapement is estimated using test netting at river mile 9, sport angler harvest survey, and sonar equipment located at river mile 14. The spawning escapement for the years 2006 – 2015 averaged 26,613 fish with a range of 16,527 fish in 2010 to 48,950 in 2006.

The preliminary 2020 sonar count of large late-run Kenai River Chinook Salmon was 11,499 fish with an escapement estimate of 11,908 fish, accounting for sport fishery harvest above the sonar site and spawning below the sonar site (Brenner et al. 2021). Neither the large fish OEG (15,000–30,000 fish), nor the SEG (13,500–30,000 fish) for Kenai River late-run Chinook Salmon was achieved in 2020 (Brenner et al. 2021). The 2021 late-run Chinook Salmon returns were well below average with the large Chinook Salmon forecast of approximately 18,406 fish (ADF&G 2022d). Preliminary spawning escapement estimates for 2021 were 12,176 Chinook Salmon with a total run estimate of 12,519 large fish (ADF&G 2022d).

The State's *Kenai River Late-Run King Salmon Management Plan* (5 AAC 21.359) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. While this run is primarily managed for use by the sport fishery, the incidental harvest in commercial fisheries is substantial. Most of the sport harvest is taken below the Soldotna Bridge within the Kenai River, although some are taken in marine waters in the Deep Creek sport fishery. Chinook Salmon in 2014. To determine whether the escapement goal will or will not be achieved, daily sonar estimates of Chinook Salmon passing the sonar site and estimates of the sport harvest from creel surveys are utilized in a run timing model to project total inriver return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the SEG range, the fishery is restricted by several steps, including prohibiting use of bait, to catch-and-release only with barbless hooks, and ultimately to closure, if necessary.

Cultural Knowledge and Traditional Practices

The Kenai River flows through traditional Dena’ina Athabascan territory. Kenai River drainage Chinook Salmon historically provided an important subsistence resource; the first, early run of Chinook Salmon provided a valuable source of fresh food when it was most needed (Osgood 1937, Jones and Kukkonen 2017). Writing about Upper Cook Inlet traditions that likely also applied to the Kenai Peninsula, Kari and Fall reported that “Special care was taken with the first King salmon, and a special feast was given” (2016: 181). Chinook Salmon were traditionally harvested with dip nets from *tanik’edi*, or dip netting platforms (Kari and Fall 2016).

Table 1. Three measures of Hope’s use of Chinook Salmon during two survey years. (Sources: ADF&G 2022, Fall et al. 2004).

Survey year	Pounds per person harvested	Estimated total number harvested	Percent surveyed households using
2002-2003	4.2	41	32%
1990-1991	6.9	68	35%

Table 2. Three measures of Cooper Landing’s use of Chinook Salmon during two survey years. (Sources: ADF&G 2022, Fall et al. 2004).

Survey year	Pounds per person harvested	Estimated total number harvested	Percent surveyed households using
2002-2003	4.2	82	48%
1990-1991	3.9	64	30%

Cooper Landing and Hope

Cooper Landing and Hope are small communities located in Unit 7 on the Kenai Peninsula. Both were settled by gold miners in the mid to late 1800s (Barry 1973, cited in Seitz et al. 1994). Cooper Landing is located along the Sterling Highway, about 97 road miles from Anchorage and approximately 59 road miles from the City of Kenai. Hope is about 87 miles south of Anchorage and 74 miles north of Seward (Morris Communication Company 2019). Sunrise is located approximately seven miles east of Hope and is considered a sub-community of the latter for the purposes of customary and traditional use determinations. In 2019, the estimated population of Hope-Sunrise was 229 and the estimated population of Cooper Landing was 269 (ADLWD 2020).

Cooper Landing and Hope's uses of fish have been surveyed by ADF&G, Division of Subsistence twice, first for the study period August 1990 through July 1991 (Seitz et al. 1994)³, and most recently for the study period April 2002 to March 2003 (Fall et al. 2004)⁴. For the 1990 to 1991 study year, 61 Cooper Landing households (62% of all households) and 41 Hope households (64% of all households) were surveyed. Salmon (all species) comprised approximately 45% of Hope's total estimated wild food harvest, and 43% of Cooper Landing's total harvest, providing 50 pounds and 40 pounds of food per person, respectively, making salmon the most significant resource in terms of pound of edible weight for both communities (Seitz et al. 1994).

For the 2002 to 2003 study year, 103 Cooper Landing households (78% of all households) and 60 Hope households (81% of all households) were surveyed. Data on total wild food harvest, and the portion of this harvest made up by salmon, is not available for the 2002 to 2003 study year. In both study years, Sockeye and Coho Salmon made up most of the salmon harvest, but Chinook Salmon also provided an important source of food (Seitz et al. 1994, Fall et al. 2004, **Tables 1 and 2**).

In both study years, rod and reel was the predominant method used by residents of Cooper Landing and Hope for harvesting Chinook Salmon. During the 1990 to 1991 study period, Hope residents harvested Chinook Salmon by rod and reel (12% of all surveyed households), net (3.1% of households), and "other subsistence gear" (3.6% of households) (Seitz et al. 1994). During the same period, Cooper Landing residents harvested Chinook Salmon by rod and reel (14.1% of all surveyed households) and removed them from the commercial catch (1.2 % of households) (Seitz et al. 1994).

Although presented slightly differently for the 2002 to 2003 study period, this pattern of gear use persisted. During this time, 94% of Hope's Chinook Salmon harvest was taken with rod and reel, and the remaining 6% was taken with dipnet. During this same period 90% of Cooper Landing's Chinook Salmon harvest was taken with rod and reel, 6 % was taken by fish wheel, and the remaining Chinook Salmon were taken with dipnet or "other subsistence methods" (Fall et al. 2004).

Ninilchik

The community of Ninilchik (*Niqnalchint*) is within the traditional territory of the Lower or Outer Cook Inlet Dena'ina Athabaskans on the coast of the central Kenai Peninsula in Unit 15, 38 miles south of Soldotna (Georgette 1983). The present-day community of Ninilchik was settled in 1847 by former employees of the Russian-American Company and their families (Arndt 1996, cited in Fall et al. 2000), and included individuals of Alutiiq heritage. In 2019, the estimated population of Ninilchik was 821 (ADLWD 2020).

³While Sunrise was included as part of Hope in the survey for 2002 to 2003, it is not clear whether it was included as part of the survey for 1990 to 1991.

⁴Data from the 2002 – 2003 study year are not incorporated into the Community Subsistence Information System (CSIS).

Ninilchik residents have traditionally preferred Chinook Salmon because they are firmer and oilier, “making them ideal for smoking and preserving” (Georgette 1983: 179). The community’s use of fish has been surveyed three times by ADF&G Division of Subsistence, detailed in **Table 3**.

Table 3. Study periods, households sample size, and percentage of all households surveyed for three Ninilchik subsistence surveys conducted by ADF&G, Division of Subsistence.⁵ (Sources: Reed 1985, Fall et al. 2000, Fall et al. 2004).

Study period	Number of Ninilchik households surveyed	Percentage of all households surveyed	Reference
April 2002 to March 2003	100	17%	Fall et al. 2004
1998 calendar year	101	25%	Fall et al. 2000
March 1982 to November 1983	24	11%	Reed 1985

Table 4. Three measures of Ninilchik’s use of Chinook Salmon during three survey years. (Sources: ADF&G 2022e, Fall et al. 2004).

Survey year	Pounds per person harvested	Estimated amount harvested	Percent using
2002-2003	8.4	877	66%
1998	10.4	721	69%
1982-1983	7.3	298	58%

During both the 1982 to 1983 and 1998 survey year, all species of salmon together comprised approximately a quarter of Ninilchik’s total estimated wild food harvest (Reed 1985, Fall et al. 2000). The 2002 to 2003 survey was not comprehensive and therefore did not produce a total wild food harvest in which to contextualize salmon harvest. Across the three survey years, all species of salmon together provided an estimated average 35.8 pounds of food per person. During the 1982 to 1983 survey year, Chinook Salmon was the most important species of salmon for residents of Ninilchik in terms of pounds harvested, but in the latter two survey years, Sockeye Salmon was the most important species, followed by Coho Salmon, and then Chinook Salmon (Reed 1985, Fall et al. 2000, Fall et al. 2004). Ninilchik’s use of Chinook Salmon is detailed in **Table 4**.

⁵ In the 1982 study year, only households within the Ninilchik census area were included, whereas in the 1998 study year, “Ninilchik” also included the Happy Valley CDP, plus the population north of the Ninilchik CDP to the Clam Gulch CDP, and a small portion of the Clam Gulch CDP to approximately Milepost 121” (Fall et al. 2000).

In all survey years, rod and reel accounted for most of Ninilchik's Chinook Salmon harvest. For the 1982 to 1983 study year, 79% of Chinook Salmon were harvested by rod and reel, and 21% were removed from commercial year (Reed 1985). In 1998, 61% of the Chinook Salmon harvest was obtained by rod and reel, approximately 21% were removed from commercial catch, and 17% were caught with set nets (Fall et al. 2000). Finally, for the 2002 to 2003 study year, approximately 70% of the Chinook Salmon harvest was taken by rod and reel, followed by removal from the commercial catch (approximately 14%), gill net (approximately 11%), and removal from guided catch (approximately 5%) (Fall et al. 2004).

Harvest History

Harvest of Pacific salmon returning to the Kenai River drainage occurs in Federal subsistence fisheries, as well as State commercial, sport, personal use, and educational fisheries. Federal subsistence regulations have provided for the harvest of fish in the Kenai River drainage for the rural residents of Cooper Landing and Hope, and since 2006 and Ninilchik from 2006 to 2007, and from 2010 onward. Management of the Federal subsistence fishery occurs through general and Cook Inlet Area specific subsistence regulations, as well as in-season management actions. A Federal subsistence fishing permit is required for the harvest of salmon, trout, and char, and all harvest must be reported to the Federal in-season manager. While the Federal subsistence regulations allow for the harvest of Chinook Salmon from both runs, the actual harvest over the years has been very low (**Appendices 1 - 3**). Harvest closures have occurred in the Kenai River for the retention of Chinook Salmon over the past ten years may have impacted the harvest to some degree. Sport fishery harvests of early-run Kenai River Chinook Salmon during 2007 – 2016 have ranged from 0 to 3,500, with an average of 1,273 (Begich et al. 2017). These harvests do not include the estimated hook-and-release mortality that ranges from 0 to 220 fish. The Kenaitze Tribe's educational fishery harvest has ranged from 1 to 49 early-run Chinook Salmon during 2007 – 2016, with an average of 23.

The harvest of late-run Chinook Salmon is monitored in the commercial, personal use, sport, and educational fisheries (Begich et al. 2017). Commercial fishery harvests during 2006 – 2015 have ranged from 621 to 15,812 Kenai River late-run Chinook Salmon, with an average of 4,933. Harvests in the Deep Creek marine sport fishery have ranged from 30 to 591 Kenai River late-run Chinook Salmon during 2006 – 2015, with an average of 386. Sport fishery harvests in the Kenai River have ranged from 103 to 15,812 late-run Chinook Salmon during 2006 – 2015, with an average of 6,515. These in-river harvests do not include the estimated hook-and-release mortality that ranges from 71 to 830 fish. Personal use dip net fishery harvests have ranged from 0 to 1,509 late-run Chinook Salmon during 2006 – 2015, with an average of 813. Kenaitze Tribe's educational fishery harvests have ranged from 0 to 21 late-run Chinook Salmon during 2006 – 2015, with an average of 8.

Effects of the Proposal

If adopted by the Board, this proposal will reduce the maximum allowable harvest length of Kenai River Chinook Salmon by Federally qualified subsistence users by going from a slot limit less than 46 inches or 55 inches and longer, to a size limit less than 34 inches. Allowing harvest of smaller Chinook Salmon while protecting the larger more productive females to spawn may help improve the quality of escapement and the health of the run. Updating federal size regulations to be more consistent with recent changes to state regulations may benefit the Kenai River Chinook Salmon stock. Rural residents with a customary and traditional use determination for fish in the Kenai River area harvest most of their Chinook Salmon with rod and reel. This proposal would reduce opportunity for Federally qualified subsistence users by decreasing the total allowable time to fish with rod and reel while Chinook Salmon are present in the Kenai River and by making any fish caught of length greater than 34 inches ineligible for harvest.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP23-07.

Justification

This proposal would place restrictions on Federally qualified subsistence users that may be detrimental to the satisfaction of their subsistence needs. Restricting harvest of Chinook Salmon to only fish less than 34 inches, prohibiting bait as a means for harvest, and truncating harvest dates restricts harvest opportunity. The proposed change provides no meaningful priority of Kenai River Chinook Salmon for Federally qualified subsistence users.

The historic Federal subsistence harvest of Kenai River Chinook Salmon in the rod and reel fishery has been relatively minimal and would have no significant impact on Kenai River large Chinook Salmon escapement. The harvest of two Chinook Salmon during the 12-year period from 2007 - 2019 suggests there is little evidence to support that subsistence harvest of Kenai River Chinook Salmon would violate recognized principles of fish and wildlife conservation.

A Federal subsistence permit is required to harvest Kenai River Chinook Salmon and that permit requires a record of the harvest and location of the harvest. The subsistence fishery can be monitored through these permits and changes made by the Federal in-season manager to the permit conditions if needed. Under existing authority delegated by the Board, the Field Supervisor of the Kenai Fish and Wildlife Conservation Office has the ability to open or close Federal subsistence fishing periods as well as specifying methods and means for the continued viability of Kenai River Chinook Salmon.

LITERATURE CITED

Alaska Department of Fish and Game. [ADF&G]. 2016a. Alaska Fisheries Sonar. Escapement Goals. <http://www.adfg.alaska.gov/index.cfm?adfg=sonar.escapementgoals>. Retrieved June 2022.

- ADF&G. 2016b. Kenai early run Chinook estimates, indices and inseason run summaries. <http://www.adfg.alaska.gov/sf/FishCounts/index.cfm?ADFG=main.kenaiChinook&RunSummaryID=158#/inseasonSummary>. Retrieved June 2022.
- ADF&G. 2016c. Kenai (RM 8.6) River. http://www.adfg.alaska.gov/index.cfm?adfg=sonar.site_fish&site=2 Retrieved June 2022.
- ADF&G. 2016d. Kenai Late Run Chinook Estimates, Indices and Inseason Run Summaries. <http://www.adfg.alaska.gov/sf/FishCounts/index.cfm?ADFG=main.kenaiChinook&RunSummaryID=145#/fishCounts>. Retrieved June 2022.
- ADF&G. 2016e. Outlook for the Kenai River Chinook salmon late run. Memorandum. February 5, 2016. http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2015-2016/uci/2016_kenai_laterun_outlook.pdf. Retrieved June 2022.
- ADF&G 2022a. Kenai River early run Chinook Salmon 2022 outlook. Memorandum. January 12, 2022. <http://www.adfg.alaska.gov/static/fishing/pdfs/sport/byarea/southcentral/2022KenaiEarlyRunOutlook.pdf>. Retrieved June 2022.
- ADF&G. 2022b. Kenai Chinook estimates, indices and inseason run summaries. <http://www.adfg.alaska.gov/sf/FishCounts/index.cfm?ADFG=main.kenaiChinook&RunSummaryID=270#/fishCounts> Retrieved June 2022.
- ADF&G. 2022c. Final early run Kenai River Chinook inseason summary. ADF&G Division of Sportfish <https://www.adfg.alaska.gov/sf/FishCounts/index.cfm?ADFG=main.kenaiChinook&RunSummaryID=276#/inseasonSummary>. Accessed August 3, 2022.
- ADF&G. 2022d. Northern Kenai Peninsula sport fish management area report. http://www.adfg.alaska.gov/sf/FishingReports/index.cfm?ADFG=R2.endOfYear&Area_Key=5. Accessed June 2022.
- ADF&G. 2022e. Community subsistence information system, ADF&G Division. of Subsistence. <https://www.adfg.alaska.gov/sb/CSIS/>. Retrieved June 10, 2022.
- ADLWD. 2020. Alaska population overview, 2019 estimates. <https://live.laborstats.alaska.gov/pop/estimates/pub/19popover.pdf>. Retrieved June 11, 2021.
- Barry, M. J. 1973. A history of mining on the Kenai Peninsula. Alaska Northwest Publishing Company. Anchorage, AK. 296 pp.
- Begich, R.N., Pawluk, J.A., Cope, J.L., and Simons, S. 2017. 2014-2017 annual management report and 2016 sport fisheries overview for Northern Kenai Peninsula: fisheries under consideration by the Alaska Board of Fisheries, 2017. Alaska Department of Fish and Game, Fishery Management Report No. 17-06, Anchorage
- Bendock, T. and M. Alexandersdottir. 1992. Mortality and movement behavior of hooked-and-released Chinook salmon in the Kenai River recreational fishery, 1989–1991. Alaska Department of Fish and Game, Fishery Data Series No. 92-2, Anchorage, Alaska.

- Boersma, J.K., and K.S. Gates. 2016. Abundance and run timing of adult Chinook Salmon in the Funny River, Kenai Peninsula, Alaska, 2015. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Conservation Office, Alaska Fisheries Data Series Number 2016-3, Soldotna, Alaska
- Brenner, R.E., S.J. Larsen, A.R. Munro, and A.M. Carroll, editors. 2021. Run forecasts and harvest projections for 2021 Alaska salmon fisheries and review of the 2020 season. Alaska Department of Fish and Game, Special Publication No. 21-07, Anchorage.
- Burger, C.V., D.B. Wangaard, R.L. Wilmot, and A.N. Palmisano. 1983. Salmon investigations in the Kenai River, Alaska, 1979 – 1981. Alaska Field Station, National Fishery Research Center, Fish and Wildlife Service, U.S. Department of the Interior, Anchorage.
- Fall, J.A., V. Vanek, L. Brown, G. Jennings, R.J. Wolfe, and C. Utermohle. 2000. Wild resource harvests and uses by residents of selected communities of the Kenai Peninsula Borough. ADF&G, Div. of Subsistence Tech. Paper No. 253. Juneau, AK.
- Fall, J.A., R.T. Stanek, B. Davis, L. Williams, and R. Walker, R. 2004. Cook Inlet Customary and Traditional Subsistence Fisheries Assessment. ADF&G, Div. of Subsistence Tech. Paper No. 285. Juneau, AK.
- Georgette, S.E. 1983. Niniilchik: Resource uses in a small, road-connected community of the Kenai Peninsula Borough. Pages 170-187 *in* Wolfe, R.J., L.J. Ellanna, E.F. Andrews, S.R. Behnke, R.A. Caulfield, R. Courtney, J.A. Fall, S.E. Georgette, M.M. Gerneau, D.L. Greenberg, P.I. Harper, J.S. Magdanz, A.G. Martin, R.K. Nelson, C.E. Reed, R. Schroeder, and R.J. Wolfe. Resource use and socioeconomic systems: case studies of fishing and hunting in Alaskan communities. ADF&G, Div. of Subsistence Tech. Paper No. 61. Juneau, AK.
- Hammarstrom, S.L., L. Larson, M. Wenger, and J. Carlon. 1985. Kenai Peninsula Chinook and Coho salmon studies. Alaska Department of Fish and Game. Federal Aid in Fish Restoration. Annual Performance Report, 1984-1985, Project F-9-17(26)G-II-L, Juneau. [http://www.adfg.alaska.gov/FedAidPDFs/FREDF-9-17\(26\)G-III.pdf](http://www.adfg.alaska.gov/FedAidPDFs/FREDF-9-17(26)G-III.pdf)
- Jones, B., and M. Kukkonen, M. 2017. Local and traditional knowledge of abundance of Chinook Salmon in the Kenai River. ADF&G, Div. of Subsistence Tech. Paper No. 431. Anchorage, AK.
- Kari, J. and J.A. Fall. 2016. Shem Pete's Alaska: The territory of the Upper Cook Inlet Dena'ina. The University of Alaska Press with the Alaska Native Language Center. Fairbanks, AK.
- Kendall, N.W. and T.P. Quinn. 2011. Length and age trends of Chinook Salmon in the Nushagak River, Alaska, Related to commercial and recreational fishery selection and exploitation. *Transactions of the American Fisheries Society* 140: 611–622.
- Lewis, B., W.S. Grant, R.E. Brenner, and T. Hamazaki. 2015. Changes in size and age of Chinook Salmon *Oncorhynchus tshawytscha* returning to Alaska. *PLoS ONE* 10(6):1-17.
- Morris Communication Company. 2019. The milepost 2019: Alaska travel planner. Morris Communication: Augusta, Georgia.
- Osgood, C. 1937. The Ethnography of the Tanaina. Yale University Publications in Anthropology Number 16. New Haven: Yale University Press.

- Reed, C.E. 1985. The role of wild resource use in communities of the central Kenai Peninsula and Kachemak Bay, Alaska. ADF&G, Div. of Subsistence Tech. Paper No. 106. Anchorage, AK.
- Ricker W.E. 1980. Causes of the decrease in age and size of Chinook salmon (*O. tshawytscha*). Canadian Technical Report. Journal of Fisheries and Aquatic Sciences 944: 1–25.
- Seitz, J., L. Tomrdle, and J.A. Fall. 1994. The use of fish and wildlife in the Upper Kenai Peninsula communities of Hope, Whittier, and Cooper Landing. ADF&G, Div. of Subsistence Tech. Paper No. 219. Juneau, AK.
- U.S. Fish and Wildlife Service. [USFWS]. 2008. Cook Inlet area Federal subsistence fisheries 2007 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2009. Cook Inlet area Federal subsistence fisheries 2008 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2010. Cook Inlet area Federal subsistence fisheries 2009 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2011. Cook Inlet area Federal subsistence fisheries 2010 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2012. Cook Inlet area Federal subsistence fisheries 2011 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2013. Cook Inlet area Federal subsistence fisheries 2012 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2014. Cook Inlet area Federal subsistence fisheries final 2013 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2015. Cook Inlet area Federal subsistence fisheries 2014 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2016. Cook Inlet area Federal subsistence fisheries 2015 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2017. Cook Inlet area Federal subsistence fisheries 2016 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2018. Cook Inlet area Federal subsistence fisheries 2017 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2019. Cook Inlet area Federal subsistence fisheries 2018 summary. Unpublished report. USFWS. Soldotna, AK.
- USFWS. 2020. Cook Inlet area Federal subsistence fisheries 2019 summary. Unpublished report. USFWS. Soldotna, AK.

Appendix 1. Kenai River Federal subsistence dip net salmon harvests by residents of Hope, Cooper Landing, and Nimilchik between the years 2007 and 2019. (Sources: USFWS 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020).

Dip Net Harvests		Russian River Falls		Kenai River (RM 45.5-48)		Moose Range Meadows		Total
		Sockeye	Coho	Sockeye	Chinook	Sockeye	Chinook	
Year	Sockeye	Coho	Chinook	Sockeye	Chinook	Sockeye	Chinook	Total
2007	527	n/a	n/a	0	0	12	0	539
2008	1,281	n/a	n/a	0	0	0	0	1,281
2009	809	n/a	n/a	30	0	0	0	839
2010	804	n/a	n/a	0	0	0	0	804
2011	953	n/a	n/a	0	0	0	0	953
2012	1,285	n/a	n/a	0	0	0	0	1,285
2013	1,267	n/a	n/a	0	0	0	0	1,267
2014	1,672	n/a	n/a	0	0	0	0	1,672
2015	1,604	n/a	n/a	0	0	0	0	1,604
2016	1,641	n/a	n/a	0	0	0	0	1,641
2017	1,773	n/a	n/a	25	0	0	0	1,798
2018	1,951	n/a	n/a	0	0	0	0	1,951
2019	1,848	n/a	n/a	0	0	0	0	1,848
TOTAL	17,415	n/a	n/a	55	0	12	0	17,482
Average	1340	n/a	n/a	4	0	0.923077	0	1,345

Appendix 2. Kenai River Federal subsistence rod and reel salmon harvests by residents of Hope, Cooper Landing, and Ninilchik between the years 2007 and 2019. (Sources: USFWS 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020).

Rod and Reel Harvests	Upper Kenai/Russian River Falls		Kenai River (RM 45.5-48)		Moose Range Meadows		Total			
	Sockeye	Coho	Sockeye	Coho	Sockeye	Coho				
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	169	5	n/a	0	0	0	0	0	0	174
2008	125	7	n/a	0	0	0	202	5	0	339
2009	165	9	n/a	0	0	0	93	0	0	267
2010	57	0	n/a	0	0	0	42	0	0	99
2011	46	0	n/a	0	0	0	90	0	0	136
2012	43	0	n/a	0	0	0	86	0	0	129
2013	68	4	n/a	0	0	0	73	0	0	145
2014	100	2	n/a	0	0	0	124	0	0	226
2015	89	0	n/a	0	0	0	75	0	0	164
2016	9	0	n/a	0	0	1	6	0	0	16
2017	88	0	n/a	0	0	1	42	0	0	131
2018	103	3	n/a	0	0	0	33	0	0	139
2019	127	5	n/a	0	0	0	55	0	0	187
TOTAL	1189	35	n/a	0	0	2	921	5	0	2,152
Average	91	3	n/a	0	0	0.2	71	0.4	0	166

Appendix 3. Kenai River Federal subsistence community gillnet salmon harvests by residents of Hope, Cooper Landing, and Ninilchik between the years 2007 and 2019. (Sources: USFWS 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020).

Year	Sockeye		Chinook		Sockeye		Coho		Moose Range Meadows		Total
	Sockeye	Coho	Chinook	Sockeye	Chinook	Coho	Pink	Total			
2016	-	-	-	-	12	1	1	6	742		
2017	-	-	-	-	-	1	1	11	2,193		
2018	-	-	-	-	32	-	-	6	1,526		
2019	-	-	-	-	6	-	-	1	2,839		
TOTAL	-	-	-	-	62	2	2	24	7,300		
Average	-	-	-	-	16	1	1	6	1,825		

FP23-08/09/12 Executive Summary	
General Description	Proposal FP23-08/09/12 requests that the Federal Subsistence Board recognize the customary and traditional use of all fish in the Kenai Peninsula District, waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest by residents of Moose Pass.
Proposed Regulation	<p>Customary and Traditional Use Determination—All Fish</p> <p>COOK INLET AREA</p> <p>Kenai Peninsula District – <i>Residents of the communities of Cooper Landing, Hope, Moose Pass, and Ninilchik.</i> Waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest</p>
OSM Preliminary Conclusion	Support Proposals FP23-08/09/12.
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	None

DRAFT STAFF ANALYSIS

FP23-08/09/12

ISSUES

Proposal FP23-08/09/12, submitted by Daniel Krueger, Sarah Schuh, and Claire Shipton of Moose Pass, respectively, requests that the Federal Subsistence Board (Board) recognize the customary and traditional use of all fish in the Kenai Peninsula District, waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest by residents of Moose Pass.

DISCUSSION

The proponent of FP23-08 notes that the Board designated Moose Pass as “rural” in 2021. He states that Moose Pass has historically relied on subsistence hunting and fishing in the surrounding National Forest. Based on this history, as well as recent customary and traditional use determinations for Moose Pass for wildlife, the proponent believes that residents should be eligible for subsistence fishing under Federal regulations along the Kenai River and its tributaries, including the Russian River.

The proponent of FP23-09 states that she and other residents of Moose Pass rely heavily on harvests of local fish, game, and forage. She asks the Board to extend the same subsistence rights afforded to Cooper Landing and Hope to Moose Pass so that residents can subsistence fish along the Kenai River and its tributaries such as the Russian River.

The proponent of FP23-12 states that he and his family fish on the Russian River and Kenai River each year for salmon. He would like an opportunity to stock up on fish in proximity to his community. Being able to take 40 sockeye salmon on the Russian River would free up time that would otherwise be spent trying to harvest salmon by other means.

Existing Federal Regulation

Customary and Traditional Use Determination—All Fish

COOK INLET AREA

Kenai Peninsula District – Waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest

Residents of the communities of Cooper Landing, Hope, and Ninilchik.

Proposed Federal Regulation

Customary and Traditional Use Determination—All Fish

COOK INLET AREA

Kenai Peninsula District – Waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest

*Residents of the communities of Cooper Landing, Hope, **Moose Pass**, and Ninilchik.*

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.

The areas affected by this proposal include the Federal public waters in the Cook Inlet Area north of and including the Kenai River drainage, within the exterior boundaries of the Kenai National Wildlife Refuge and the Chugach National Forest (referred to as the Kenai River area in this analysis). See **Map 11, Cook Inlet Area** in the 2021-2023 Federal Subsistence Management Regulations for the Harvest of Fish and Shellfish.

Regulatory History

In 1992, the Federal Subsistence Management Program promulgated 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]). In 1999, the Board also 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 2001, the Board considered Proposal FP02-11a, submitted by Ninilchik Traditional Council, Stephen Vanek and Fred H. Bahr, which requested a customary and traditional use determination for all fish and all shellfish in the Cook Inlet Area for residents of the Kenai Peninsula District, defined as “all freshwater drainages of the Kenai Peninsula west of a line from Cape Fairfield to the west bank of the mouth of Ingram Creek, excluding Ingram Creek” (OSM 2001). The Board deferred making decisions on the use of fish in the Cook Inlet Area until the completion of an Office of Subsistence Management funded study, “Cook Inlet Customary and Traditional Subsistence Fisheries Assessment” (Fall et al. 2004), because the Board felt that community-specific harvest use information was needed to properly analyze customary and traditional patterns of use in the Cook Inlet region.

In January 2006, the Board considered Proposal FP06-09, the deferred proposal from the 2002 regulatory cycle, Proposal FP02-11a. Proposal FP06-09 was submitted by NTC, Stephen Vanek and Fred H. Bahr and requested a customary and traditional use determination for all fish and all shellfish in the Cook Inlet Area for residents of the Kenai Peninsula District. The Board made a customary and traditional use determination for: 1) Hope and Cooper Landing for all fish in the Federal public waters

of the Kenai Peninsula District, north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest; and 2) Ninilchik for all fish in the Federal public waters of the Kasilof River drainage. Moose Pass was not considered rural by the Board at this time and was not included in Fall et al.'s 2004 study.

In May of 2006, the State and Ninilchik Traditional Council submitted requests for reconsideration (FRFR06-02/03/08) of the Board's customary and traditional use determinations made in January 2006. The Board revisited its decision in a work session in November 2006 and added Ninilchik to the customary and traditional use determination for all fish in the Kenai River area.

In May 2007, the Board rejected FP07-28, submitted by the Kenai River Sportfishing Association, which requested that the customary and traditional use determinations for all fish in the Kenai Peninsula District for residents of Hope, Cooper Landing, and Ninilchik be rescinded and that there be no Federal subsistence priority. Also in May 2007, the Board rejected FRFR06-09, submitted by the State, requesting that the Board rescind its November 2006 decision on FRFR06-02/03/08, which added Ninilchik to the customary and traditional use determination for all fish in the Kenai River area.

In September 2007, the Board met in a work session to correct a voting error on FRFR06-09 from the May 2007 meeting that did not comply with Robert's Rules of Order. The Board modified the existing Kenai River area determination through a new motion that found a customary and traditional use determination for the community of Ninilchik only for salmon in the Kenai River area, thus rescinding Ninilchik's customary and traditional use determination for resident fish species in the area. The customary and traditional use determination for Hope and Cooper Landing residents for all fish in the Kenai River area remained in place.

In January of 2009, the Board rejected FP09-07, submitted by Ninilchik Traditional Council, which requested that Ninilchik be added to the customary and traditional use determination for all fish, rather than only salmon, in the Kenai River area. The proposal was rejected due to insufficient evidence of customary and traditional use of resident fish species by residents of Ninilchik. As a result, Ninilchik Traditional Council submitted a request for reconsideration (RFR09-01), which the Board considered in November 2010. The Board reversed its earlier decision on FP09-07 and added residents of Ninilchik to the customary and traditional use determination for all fish in the Kenai River area. Thus, the customary and traditional use determination for all fish in the Kenai River area has been in place in its current form since 2010.

Moose Pass was designated "non-rural" by the Board in 1990. In 2021, the community of Moose Pass (defined as including the census designated places (CDPs) of Moose Pass, Crown Point, and Primrose) received rural status when the Board adopted Proposal RP19-01.

Moose Pass' customary and traditional use of wildlife has recently been recognized within Unit 7, 15A, and 15B on the Kenai Peninsula. In 2021, multiple proposals were submitted requesting customary and traditional use determinations for wildlife in all or portions of Units 7 and 15 for residents of Moose Pass. In April 2022, the Board considered WP22-16/17/18/19/21/22/23/24/26a and adopted WP22-16/17/18/21/23/26a, adopted WP22-22 and WP22-24 with modification to remove Unit

15C, and rejected WP22-19. As a result, Moose Pass received customary and traditional use determinations for moose in Units 7, 15A, and 15B, caribou in Units 7 and 15B, and goats in Unit 7 remainder and Units 15A and 15B. This decision was consistent with the recommendations of the Southcentral Alaska Subsistence Regional Advisory Council.

Community Characteristics

The Moose Pass area is situated within the traditional territory of the Lower or Outer Cook Inlet Dena'ina Athabaskans on the Kenai Peninsula (see **Map 11, Cook Inlet Area** in the 2021-2023 Federal Subsistence Management Regulations for the Harvest of Fish and Shellfish). Not far from the Moose Pass area, Dena'ina people fished and hunted within the Kenai River watershed. The Alutiiq or Sugpiaq traditional territory bordered the southeastern portion of the peninsula.

The contemporary town of Moose Pass is in the western extent of the Chugach National Forest. The community includes the CDPs of Crown Point, Moose Pass, and Primrose. Moose Pass was settled during the developmental phase of mining and railway construction on the Kenai Peninsula, which began in the early 1900s (Barry 1976, Rakestraw 2002). The community's name is said to derive from an encounter between a mail carrier traveling by dog team and a moose (DCRA 2021). The population in Moose Pass experienced growth during the 1970s and 1980s as workers with the oil industry and government agencies moved into the area. Since that time, tourism and recreation industries have continued to bring in more people to the community and surrounding area (Whitmore-Painter 2002). In 2019, the estimated population was 391 (ADLWD 2020).

Eight Factors for Determining Customary and Traditional Use

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

The Board makes customary and traditional use determinations based on a holistic application of these eight factors (50 CFR 100.16(b) and 36 CFR 242.16(b)). In addition, the Board takes into consideration the reports and recommendations of any appropriate Regional Advisory Council

regarding customary and traditional use of subsistence resources (50 CFR 100.16(b) and 36 CFR 242.16(b)). The Board makes customary and traditional use determinations for the sole purpose of recognizing the pool of users who generally exhibit some or all of the eight factors. The Board does not use such determinations for resource management or restricting harvest. If a conservation concern exists for a particular population, the Board addresses that concern through the imposition of harvest limits or season restrictions rather than by limiting the customary and traditional use finding.

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

It is worth noting, as Fall et al. observed, that “Identification of [customary and traditional] uses of fish in federal waters...for Kenai Peninsula stocks poses a challenge because of the area’s complex history, economy, and demography” (2004: 1). All subsistence fishing in freshwater streams and lakes was closed in 1952, while rod and reel fishing remained open. A dip net personal use fishery on the Kenai River was first opened in 1981 (Fall et al. 2004).

Broad use of wild resources by Moose Pass residents was demonstrated through public testimony during consideration of Rural Proposal RP19-01 in October 2019 (OSM 2019). During the public hearing for that proposal, many residents of Moose Pass reported the value of being able to harvest resources outside their backdoor, but also related their willingness to travel as far as necessary to take advantage of all opportunities to hunt and fish. Also important for almost all who provided testimony was the ability and commitment to feed their family with wild foods that are available locally. “We’ve fed our children moose, black bear, goat, sheep, salmon and trout throughout the years” (OSM 2019). Throughout the public hearing, multiple residents stated their practice of fishing for food in areas surrounding Moose Pass. One resident remembered fishing the Russian River while growing up and living in Moose Pass.

The community’s broad use of wild resources was also documented by a comprehensive subsistence survey conducted by the Alaska Department of Fish and Game (ADF&G) Division of Subsistence for the period April 2000 to March 2001 (Davis et al. 2003). All households in the community were invited to participate in the study; 99 households (66.9% of all households) were interviewed. Results indicated that 99% of surveyed households used wild foods, and 92% harvested resources, resulting in 87 pounds of wild food per person (Davis et al. 2003).

Fish harvest by Moose Pass residents

During the 2000 to 2001 ADF&G Division of Subsistence study period, salmon was the single most important resource harvested by residents of Moose Pass in terms of pounds of edible weight, accounting for 32 pounds of food per person, or 37% of all wild foods harvested by the community. Sockeye Salmon contributed most to the total salmon harvest, followed by Coho Salmon, then Chinook

Salmon. In 2000 to 2001, Moose Pass harvested 76% of its salmon by rod and reel, 16% by dipnet, and 8% by setnet (Davis et al. 2003).

During the study year, residents of Moose Pass also harvested nonsalmon freshwater fish. Rainbow Trout was the most significant nonsalmon freshwater fish harvested, both in terms of pounds of edible weight per person and the percentage of surveyed Moose Pass households attempting to harvest them. Lake Trout and Dolly Varden were also harvested. Overall, these three species provided 3.5 pounds of food per person. Smaller amounts of Arctic Grayling, Northern Pike, other species of trout, and whitefish were also harvested (Davis et al. 2003).

Fish harvest locations

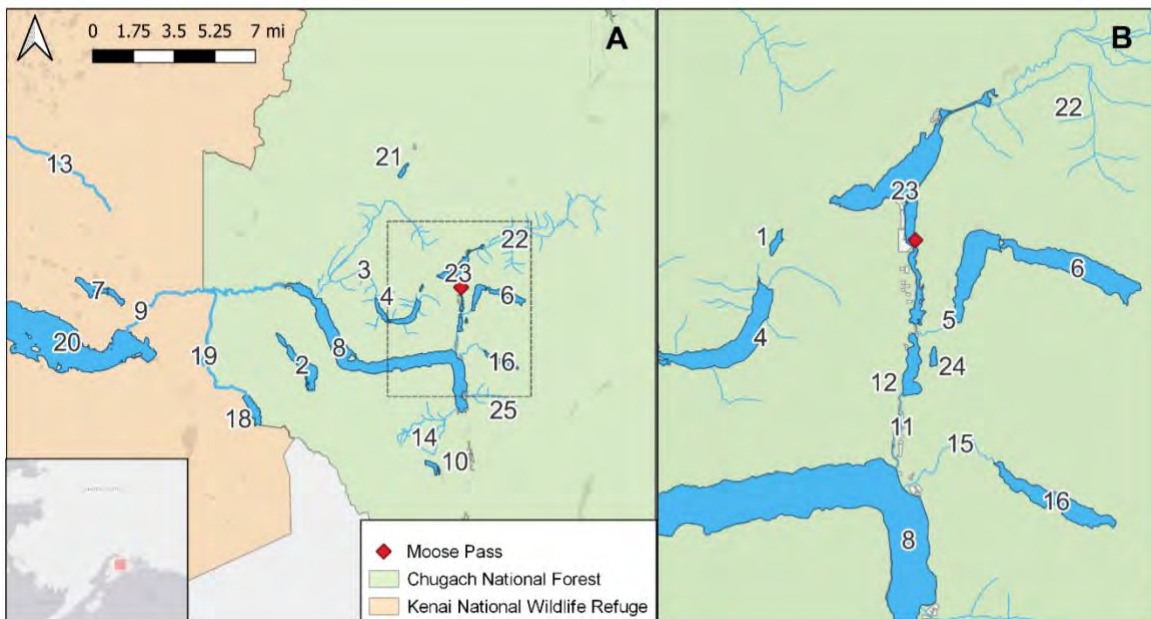
As part of their subsistence survey, Davis et al. (2003) also mapped Moose Pass' fish harvest locations over the previous ten years. Use areas should not be considered exhaustive but do provide valuable information on confirmed areas of search and use for wild resources. The geographical data demonstrate a preference for intensive local land and water use as opportunities are available, typical of a subsistence practice characterized by efficiency of effort and cost. Residents traveled farthest to harvest salmon, marine fish, and marine invertebrates (Davis et al. 2003).

The most important location for Sockeye salmon fishing by residents of Moose Pass within the area under consideration was the confluence of the Kenai and the Russian rivers, followed by the lower Kenai River and the Kenai River's confluence with the Funny River. Those surveyed had also fished for Sockeye Salmon at the Kenai River above Skilak Lake and around Copper Creek and Kenai Lake (Davis et al. 2003).

Residents of Moose Pass fished for Coho Salmon on the Kenai River between Skilak Lake and Kenai Lake, including the Russian River and the Kenai, Moose, and Funny rivers below Skilak Lake. Salmon other than Sockeye or Coho were fished in the waters of Kenai River downstream from the Funny River confluence and other areas on the Kenai River (Davis et al. 2003).

Moose Pass residents fished for Rainbow Trout in Grant, Lower Trail, Vagt, Ptarmigan, Upper Trail, Kenai, Carter, Crescent, Russian, Cooper, Lost, Summit, and Johnson lakes, and in streams around these lakes. They also fished for Rainbow Trout in Grant, Trail, Ptarmigan, and Victor creeks. Finally, they fished for Rainbow Trout in the Kenai River from Kenai Lake to Skilak and Hidden lakes and in the Russian River, as well as in the low-lying areas of the western Kenai Peninsula around Swanson and Moose rivers (Davis et al. 2003, **Map 1**).

Dolly Varden fishing areas included Lower Trail Lake and the outlet of Grant Lake, as well as Ptarmigan, Upper Trail, and Kenai lakes. Moose Pass residents also fished for Dolly Varden in Trail, Ptarmigan, Primrose, Victor, Quartz, and Crescent creeks, and in the Russian and Kenai rivers. Nonsalmon freshwater fish other than Rainbow Trout and Dolly Varden were fished in Crescent, Carter, Grant, Lower Trail, Kenai, Lost, and Johnson lakes, and in Quartz, Grant, Lower Trail, and Upper Trail creeks (Davis et al. 2003, **Map 1**).



Map 1. Map “A” shows local waters used for nonsalmon fishing by Moose Pass residents from 1991 to 2001, as reported in Davis et al. 2003. Map “B” is an inset of the area indicated by dotted line in Map A. Note that this map does not include the Swanson and Moose Rivers, areas in the western Kenai Peninsula that were also used by Moose Pass residents to fish for Rainbow Trout. Further, residents fished for Dolly Varden in the “Kenai River,” but fishing locales for this species on the river were not further specified (Davis et al. 2003). Nonsalmon species harvested include Dolly Varden^a, Rainbow Trout^b, and other nonsalmon fish excluding Dolly Varden and Rainbow Trout^c.

Key: 1= Carter Lake^{b,c}, 2= Cooper Lake^b, 3= Crescent Creek^a, 4=Crescent Lake^{b, c}, 5=Grant Creek^{b,c}, 6=Grant Lake^{a,b,c}, 7=Hidden Lake^b, 8=Kenai Lake^{a,b,c}, 9=Kenai River^{a,b}, 10=Lost Lake^{b,c}, 11=Lower Trail Creek^{a,b,c}, 12=Lower Trail Lake^{a,b,c}, 13=Moose River^a, 14=Primrose Creek^a, 15=Ptarmigan Creek^{a,b}, 16=Ptarmigan Lake^{a,b}, 17=Quartz Creek^a, 18=Russian Lake^b, 19=Russian River^b, 20=Skilak Lake^b, 21=Summit Lake^b, 22=Upper Trail Creek^{a,b,c}, 23=Upper Trail Lake^{a,b}, 24=Vagt Lake^b, 25=Victor Creek^b.

Participation in State personal use and sport fishing in the Kenai River area

Until 1952, freshwater streams in the Kenai Peninsula were open to subsistence fishing. In 1952, all streams and lakes of the Kenai Peninsula were closed to subsistence fishing under Territory of Alaska regulations, and only rod and reel or hook and line were allowed. A personal use dip net fishery was initiated on the Kenai River in 1981 (Fall et al. 2004).

Moose pass residents can currently fish in the Kenai River area under State personal use and sport fishing regulations, but only sport fishing opportunities are available in the immediate vicinity of

Moose Pass. The Kenai River dipnet (personal use) fishery is located in Kenai, approximately 75 miles from Moose Pass, and is open from July 10 to July 31. Only one Chinook 20 inches or greater in length, and no more than 10 Chinook under 20 inches in length, may be retained per household (ADF&G 2020).

Table 1 shows that over the last 10 years, Moose Pass residents were issued a total of 177 Kenai dip net fishery permits, 120 of which were fished, resulting in a total ten-year harvest of 1,679 Sockeye Salmon, as well as small amounts of other species.

Table 1. Number of Kenai dip net fishery permits issued, fished, and reported catch by species from 2012 to 2021. Source: St.Saviour 2022, pers. comm.

Year	Permits issued	Permits fished	Sockeye Salmon	Chinook Salmon	Coho Salmon	Pink Salmon	Chum Salmon	Flounder
2021	8	6	102	0	0	1	0	0
2020	11	8	129	0	0	8	0	0
2019	9	8	126	0	0	1	0	0
2018	11	7	43	0	0	9	0	1
2017	16	13	104	1	0	5	0	0
2016	19	13	108	0	0	4	0	2
2015	23	14	285	0	1	2	0	5
2014	33	18	301	0	0	7	0	6
2013	22	16	214	0	0	4	0	0
2012	25	17	267	0	0	0	0	0
Total	177	120	1679	1	1	41	0	14

Table 2 delineates sport fishing opportunities for salmon on the Kenai River. During the 2000 to 2001 ADF&G Division of Subsistence study period, Moose Pass harvested 76% of its salmon by rod and reel (Davis et al. 2003) under State sport fishing regulations. In the 2000 to 2001 subsistence survey, Moose Pass residents were most likely to fish for salmon at the confluence of the Russian and Kenai Rivers (Davis et al. 2003), which is in the upper Kenai River, shown as one of the three areas in **Table 2**. Currently, Moose Pass residents are only able to fish for salmon on the Russian River under State sport fishing regulations. However, angler survey data specific to Moose Pass’ sport fishing on the Kenai and Russian Rivers are not available.

Table 2. Current salmon fishing opportunity under State sport fishing regulations for the Kenai River. Source: ADF&G 2022. See State regulations for additional stipulations. These regulations are described to contextualize Moose Pass’ use of salmon on the Kenai River.

	Sockeye and Chum	Coho	Chinook*
From the mouth of the Kenai River to 300 yards below Slikok Creek	Year-round: 16-inches or longer: three per day, six in possession in combination Year-round: less than 16 inches: 10 per day, 10 in possession in combination	Dec 1-Jun 30: no retention of Coho Salmon. Jul 1-Aug 31: two per day, two in possession, in combination with Sockeye or Chum Salmon	Jan 1-Jun 30: one per day, one in possession, and fish must be less than 34 inches in length Jul 1-July 31: one per day, one in possession with no size limit
From 300 yards below Slikok Creek to the outlet of Skilak Lake		Sep 1-Nov 30: three per day, six in possession in combination	Jan 1-Jul 31: one per day, one in possession, and fish must be less than 34 inches in length
The mainstem Kenai River from waters of Skilak Lake within a ½ mile radius of the river inlet upstream to the Sterling Highway bridge at the outlet of Kenai Lake, including the Russian River drainage (Upper Kenai)	Jun 11- Apr 30: 16 inches or longer: three per day, six in possession; only two per day, two in possession may be Coho Salmon through Aug 31 Jun 11- Apr 30: Less than 16 inches: 10 per day, 10 in possession, in combination		Closed

* There is a combined annual limit of five Chinook salmon 20 inches or longer from waters of multiple Southcentral areas combined, and of these five Chinook, no more than two may be taken from the Kenai River.

Effects of the Proposal

If these proposals are adopted, residents of Moose Pass would be added to the customary and traditional use determination for all fish in the Kenai Peninsula District, waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest. This would allow them to harvest fish under Federal subsistence regulations for this area. If the proposal is rejected, residents of Moose Pass could continue to fish in the Kenai River area under State personal use and sport fishing regulations.

OSM PRELIMINARY CONCLUSION

Support FP23-08/09/12.

Justification

Moose Pass residents' patterns of fishing exhibit the characteristics of customary and traditional use in the Kenai Peninsula District, waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest. The Board has previously recognized Moose Pass' customary and traditional uses of other wild resources on portions of the Kenai Peninsula, including moose in Units 7, 15A, and 15B, caribou in Units 7 and 15B, and goats in Unit 7 remainder and Units 15A and 15B. Use of fish by Moose Pass residents within the Kenai River area has been documented through community testimony related to Moose Pass' recent rural designation, an ADF&G subsistence survey, and reported harvests from the Kenai River State personal use dip net fishery.

LITERATURE CITED

- ADF&G. 2020. 2020 Complete Southcentral regional booklet.
https://www.adfg.alaska.gov/static/regulations/fishregulations/PDFs/southcentral/2020sc_sfregs_personaluse_fin_fish.pdf. Retrieved June 9, 2022.
- ADF&G. 2022. Southcentral sport fish regulations summary booklet.
http://www.adfg.alaska.gov/static/regulations/fishregulations/PDFs/southcentral/2022sc_sfregs_kenai_river.pdf. Retrieved June 10, 2022.
- ADLWD. 2020. Alaska population overview, 2019 estimates.
<https://live.laborstats.alaska.gov//pop/estimates/pub/19popover.pdf>. Retrieved June 11, 2021.
- Barry, M. J. 1976. A history of mining on the Kenai Peninsula. Alaska Northwest Publishing Company. Anchorage, AK.
- Davis, B., Fall, J. A., & Jennings, G. 2003. Wild resource harvests and uses by residents of Seward and Moose Pass, Alaska, 2000. ADF&G, Division of Subsistence Tech. Paper No. 271. Juneau, AK.
- DCRA. 2021. Division of regional and community affairs Alaska information portal: Moose Pass.
<https://dced.maps.arcgis.com/apps/MapJournal/index.html?appid=7a5d6f060f2541d0aa719ab8fb1551f2>. Retrieved: July 9, 2021.
- Fall, J. A., R.T. Stanek, B. Davis, L. Williams, and R. Walker, R. 2004. Cook Inlet customary and traditional subsistence fisheries assessment. ADF&G, Div. of Subsistence Tech. Paper No. 285. Juneau, AK.
- Fall, J. A., A. Godduhn, G. Halas, L. Hutchinson-Scarborough, B. Jones, B. McDavid, E. Mikow, L.A. Sill, and T. Lemons. 2020. Alaska Subsistence and Personal Use Salmon Fisheries 2017 Annual Report. ADF&G, Div. of Subsistence Tech. Paper No. 451. Anchorage, AK.

Jones, B., and M. Kukkonen, M. 2017. Local and traditional knowledge of abundance of chinook salmon in the Kenai River. ADF&G, Div. of Subsistence Tech. Paper No. 431. Anchorage, AK.

OSM. 2001. Staff analysis FP02-11a-14a. Pages 1-44 *in* Federal Subsistence Board Meeting Materials. December 11-13, 2001. Office of Subsistence Management, USFWS. Anchorage, AK.

OSM. 2019. Transcripts of the public hearing on nonrural determination proposal RP19-01. October 9, 2019. Office of Subsistence Management, USFWS. Anchorage, AK.

Rakestraw, L. 2002. A history of the United States Forest Service in Alaska. Retrieved from <https://foresthistor.org/wp-content/uploads/2017/01/A-History-of-the-US-Forest-Service-in-Alaska.pdf>

St. Saviour, A. 2022. Fishery Biologist. Personal communication: email. ADF&G. Anchorage, AK.

Whitmore-Painter, A. 2002. Moose Pass, pp.43-50 *in* Kenai Peninsula Historical Association (eds.), Alaska's Kenai Peninsula: The road we've travelled. Kenai Peninsula Historical Association. Hope, AK.

FP23–19 Executive Summary	
General Description	FP23-19 requests that the Lower Copper River Area Federal subsistence rod and reel and dip net fishery be rescinded. <i>Submitted by: Ahtna Intertribal Resource Commission.</i>
Proposed Regulation	<i>See pages 76 to 77 of this book for proposed regulations.</i>
OSM Preliminary Conclusion	Oppose
Southcentral Subsistence Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	5 Oppose, 2 Support

**DRAFT STAFF ANALYSIS
FP23-19**

ISSUES

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

DISCUSSION

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

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

Existing Federal Regulation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proposed Federal Regulation

§ __.27(e) Subsistence taking of fish

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

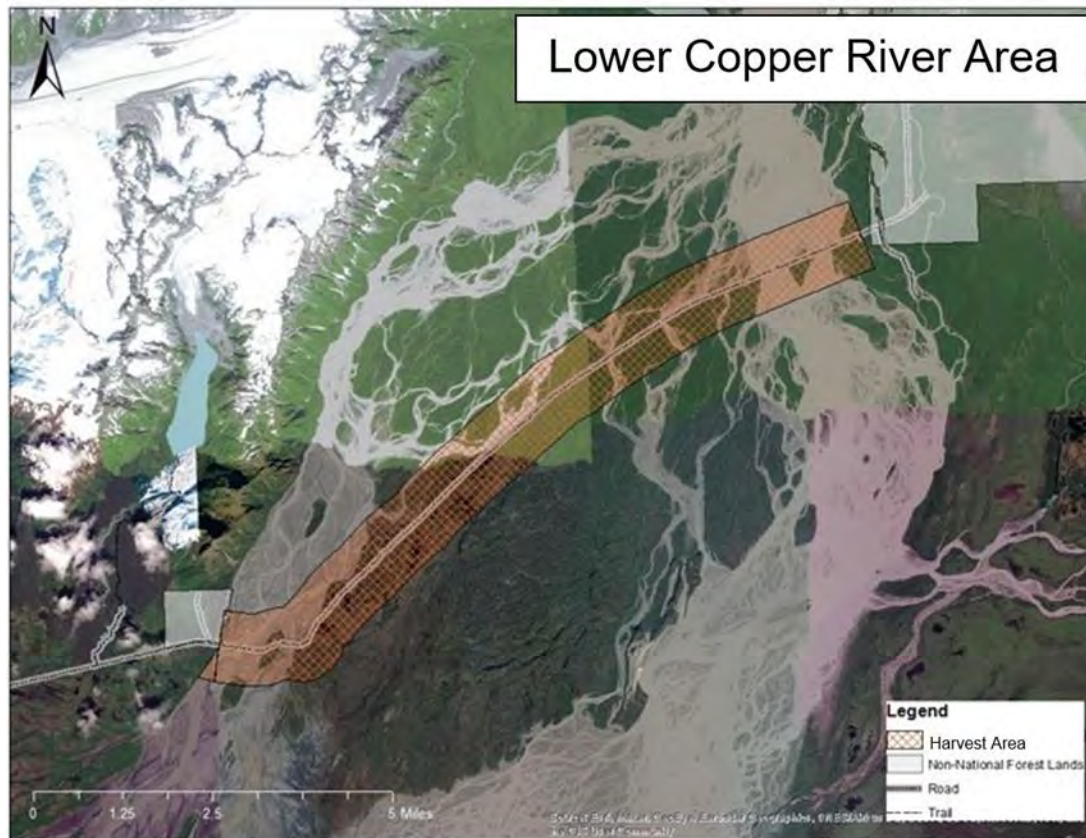


Figure 1. The Lower Copper River Area defined as the area from a boundary one-half mile upstream of the Copper River Highway to a boundary extending one-half mile downstream of the Copper River Highway, from the west riverbank near highway mile 27 to the east riverbank near highway mile 38.

Customary and Traditional Use Determinations

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

Regulatory History

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

Existing State Regulation

5 AAC 01.005. Subsistence fishing permitted

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

5 AAC 01.600. Description of the Prince William Sound Area

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

5 AAC 01.605. Description of districts and subdistricts

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

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

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

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

5 AAC 01.625. Waters closed to subsistence fishing

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

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

Extent of Federal Public Lands/Waters

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

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

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

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

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

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

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

^a Total combined harvest; see regulation for details

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

^c See regulations for open period specifications within this season

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

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

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

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

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

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

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

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

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

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

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

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

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

Current Events

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

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

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

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

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

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

Biological Background

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

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

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

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

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

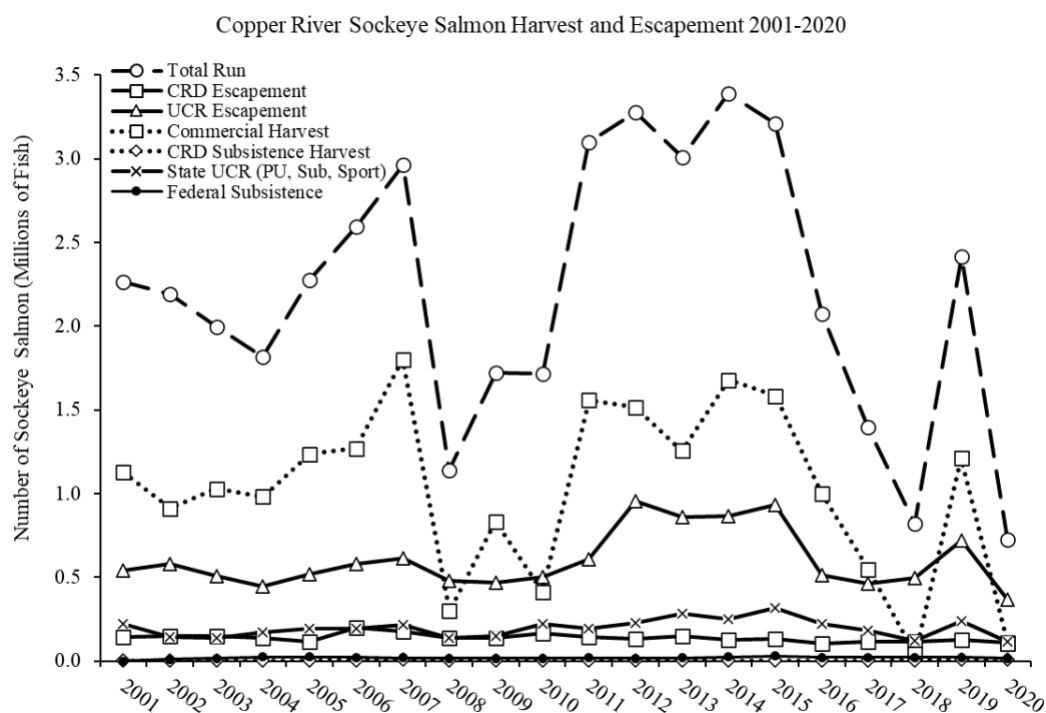


Figure 2. Copper River Sockeye Salmon total run, escapements, and harvests 2001–2020. Data from Botz et al. 2021.

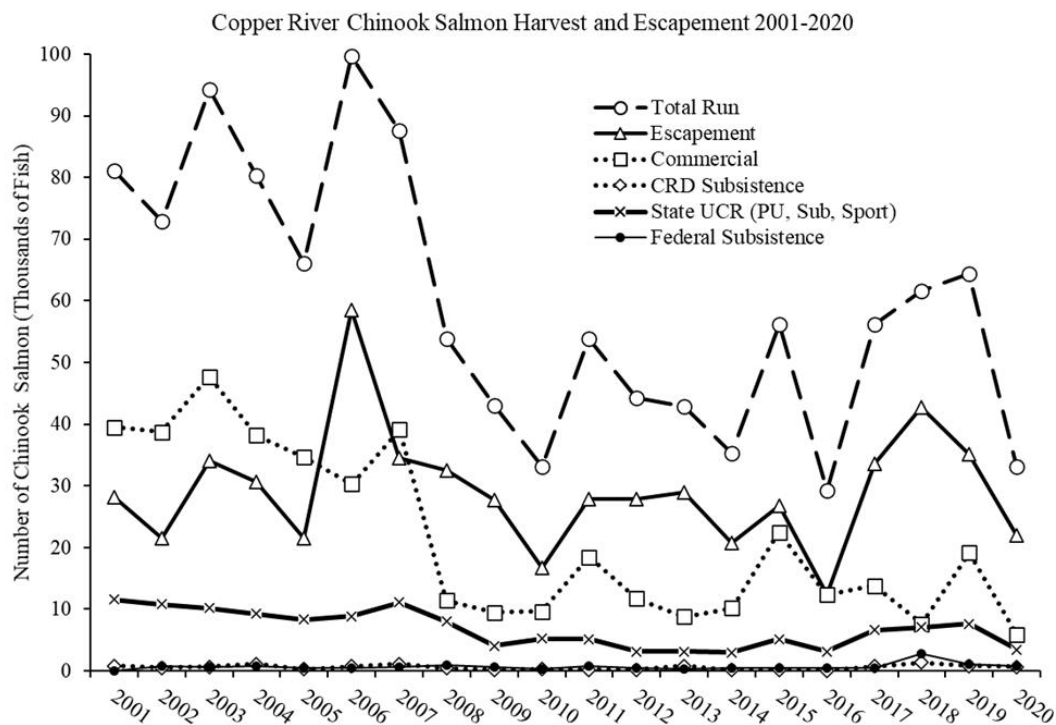


Figure 3. Copper River Chinook Salmon total run, escapements, and harvests 2001–2020. Data from Botz et al. 2021.

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

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

Cultural Knowledge & Traditional Practices

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Harvest History

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

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

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

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

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

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

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

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

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

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

Glennallen Subdistrict Federal Reported and Expanded Subsistence Fishery Harvests¹

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

5-yr. Avg. 2016	342	87.8	14,838	16,950	946	1,056	2	2	5	6	190	223	18,238
10-yr. Avg. 2011	318	89.1	16,495	18,503	692	771	20	22	9	10	162	185	19,493
2020	-	-	-	-	-	-	-	-	-	-	-	-	-

Table 3 cont.

Chitina Subdistrict Federal Reported and Expanded Subsistence Fishery Harvests¹

Year	Permits Issued	Percentage of Permits Reported	Sockeye		Chinook		Coho		Steelhead / Rainbow Trout		Other Species		All Species	
			Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²
2002	122	73.0	575	788	33	45	0	0	0	0	0	N.A.	N.A.	833
2003	100	82.0	717	874	18	22	70	85	0	0	0	N.A.	N.A.	982
2004	109	76.1	1,215	1,597	7	9	18	24	0	0	0	N.A.	N.A.	1,629
2005	76	84.2	1,265	1,502	22	26	0	0	0	0	0	0	0	1,529
2006	75	85.3	1,379	1,617	13	15	20	23	0	0	0	0	0	1,655
2007	98	88.8	929	1,046	26	29	40	45	0	0	0	0	0	1,120
2008	82	85.4	789	924	22	26	74	87	0	0	0	0	0	1,036
2009	68	91.2	817	896	8	9	11	12	0	0	0	0	0	917
2010	92	85.9	2,061	2,399	17	20	33	38	1	1	0	0	0	2,459
2011	85	85.9	1,766	2,056	13	15	8	9	0	0	0	0	0	2,081
2012	89	93.3	1,332	1,427	6	6	8	9	1	1	0	0	0	1,443
2013	99	90.9	1,999	2,199	17	19	8	9	1	1	10	11	11	2,239
2014	113	94.7	1,549	1,636	14	15	68	72	3	3	0	0	0	1,726

2015	111	92.8	2,231	2,404	13	14	14	14	15	7	8	0	0	0	2,441
2016	128	80.5	1,549	1,925	16	20	33	41	41	0	0	4	5	5	1,991
2017	132	79.5	1,454	1,828	12	15	7	9	9	0	0	0	0	0	1,852
2018	132	91.7	3,144	3,430	92	100	28	31	31	0	0	0	0	0	3,561
2019	181	90.1	4,053	4,501	75	83	20	22	22	0	0	0	0	0	4,606
2020	216	88.4	3,249	3,674	76	86	23	26	26	0	0	0	0	0	3,786
2021	194	90.2	4,765	5,282	99	110	3	3	3	0	0	0	0	0	5,395
5-yr. Avg.	158	86.0	2,690	3,072	54	61	22	26	26	0	0	1	1	1	3,159
10-yr. Avg.	129	88.8	2,233	2,508	33	37	22	24	24	1	1	1	2	2	2,572

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

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

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

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

^a as reported on returned permits

Effects of the Proposal

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

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

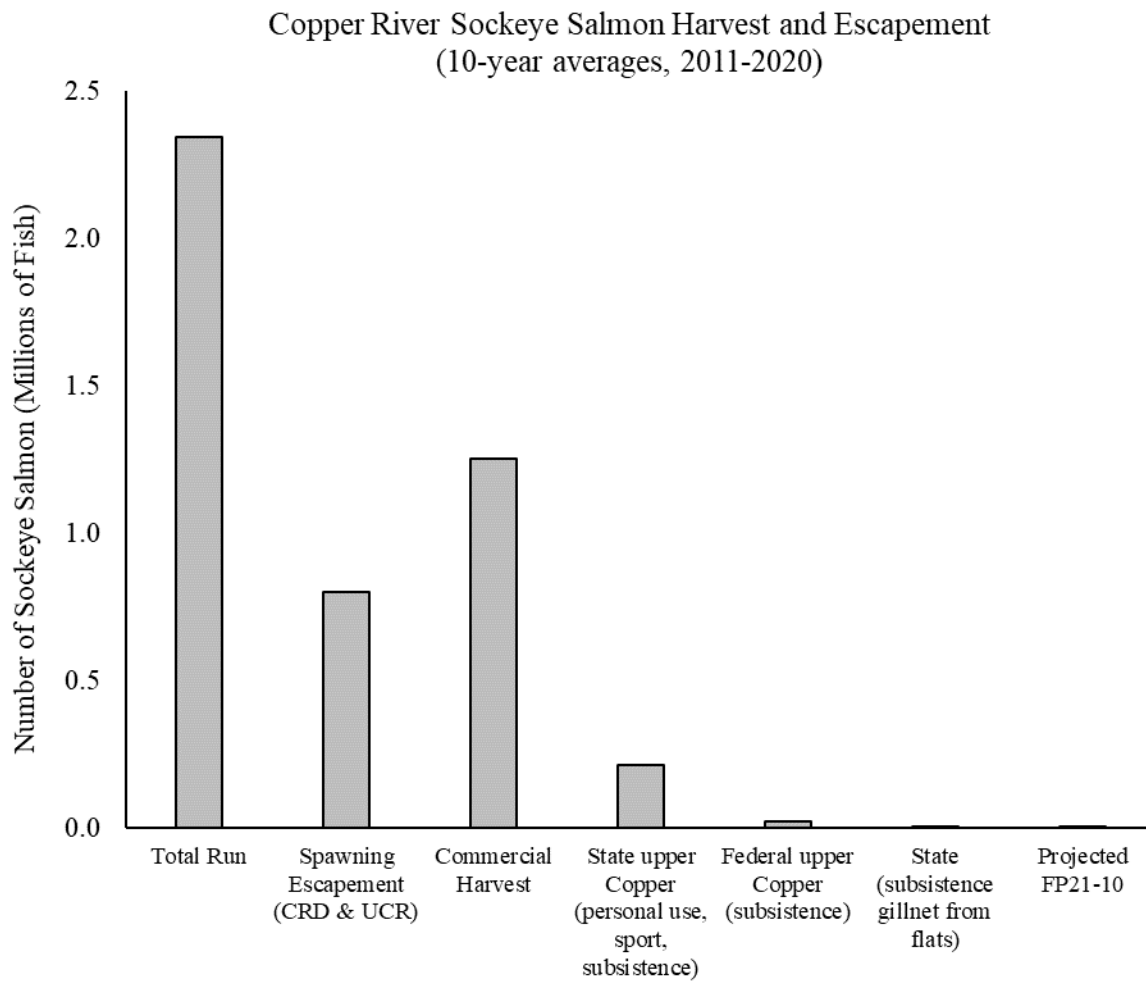


Figure 4. Comparison of ten-year average run size, escapement, and harvest of Sockeye Salmon in the Copper River by user group. The FP21-10 Lower Copper River Area is projected to harvest up to 2,000 Sockeye Salmon annually.

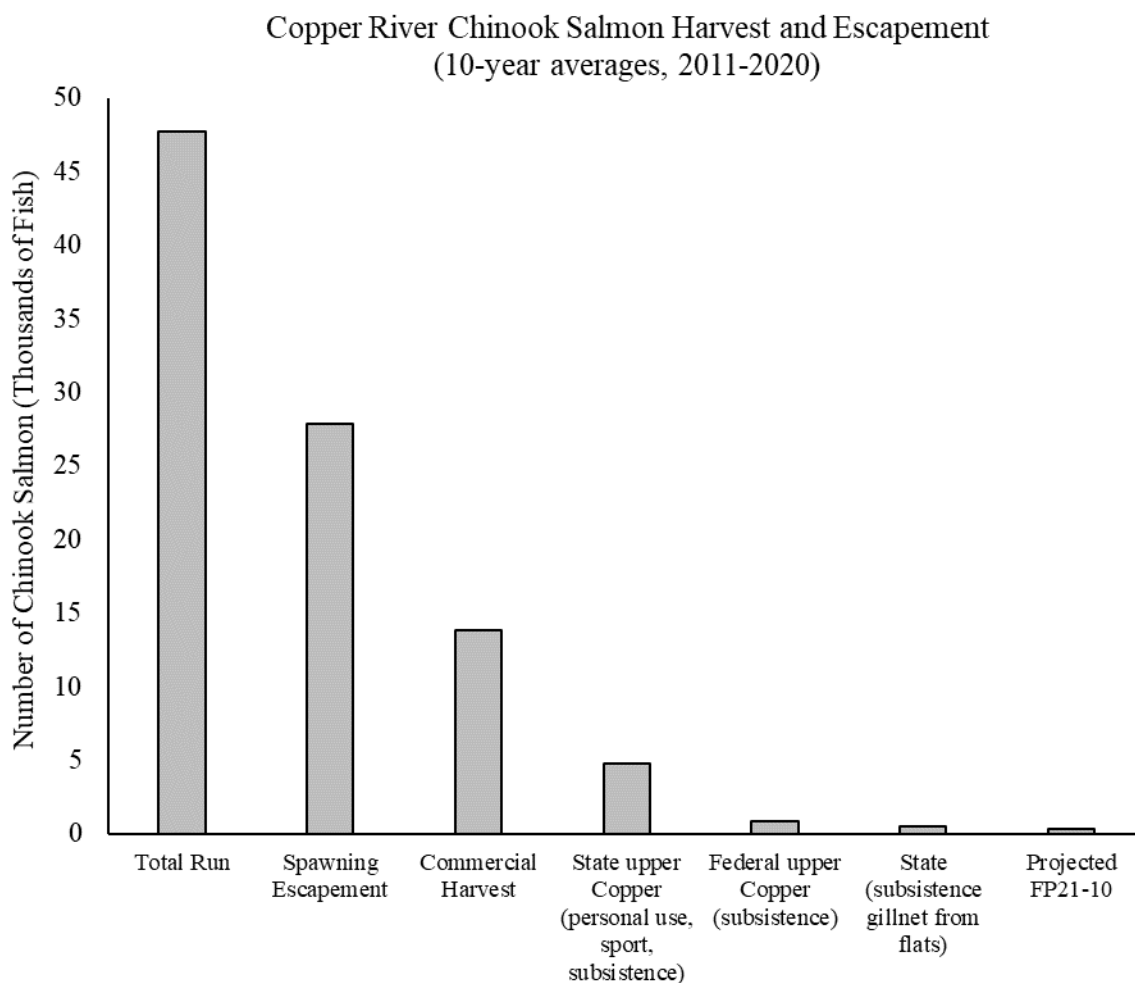


Figure 5. Comparison of ten-year average run size, escapement, and harvest of Chinook Salmon in the Copper River by user group. The FP21-10 Lower Copper River Area is projected to harvest up to 300 Chinook Salmon annually.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP23-19.

Justification

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

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

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

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

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

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

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

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

LITERATURE CITED

- ADF&G Division of Sport Fisheries. 2017a. 2017 Upper Copper River King Salmon Fishery Restrictions. News Release NR 3-KS-1-01-17. Glennallen, Alaska. March 6.
- ADF&G (Alaska Department of Fish and Game). 2017b. 2017-2018 Subsistence and Personal Use Statewide Fisheries Regulations. Division of Subsistence, Anchorage, AK.
- ADF&G, Division of Commercial Fisheries. 2018a. 2018 Prince William Sound Salmon Season Summary. News Release. Cordova, Alaska. Oct 17.
- ADF&G. 2018b. Southcentral Alaska 2018 Sport Fishing Regulations Summary. Division of Sport Fish, Anchorage, AK.
- ADF&G, Division of Commercial Fisheries. 2020a. 2020 Prince William Sound Salmon Season Summary. News Release. Cordova, Alaska. Oct 9.
- ADF&G, Division of Sport Fish, 2020b. Preseason Upper Copper River Fisheries Management Meeting 2020. May 6.
- ADF&G. 2021a. Fish Count Database Online: Copper River (Miles L) Sockeye. Retrieved December 15, 2021. <https://www.adfg.alaska.gov/sf/FishCounts/index.cfm?ADFG=main.displayResults&COUNTLOCATIONID=39&SpeciesID=420>
- ADF&G, Division of Commercial Fisheries. 2021b. 2021 Prince William Sound Salmon Season Summary. News Release. Cordova, Alaska. Nov 5, 2021.
- ADF&G. 2022. Community subsistence information system. Cordova. <https://www.adfg.alaska.gov/sb/CSIS/index.cfm?ADFG=harvInfo.harvest>. Retrieved August 10, 2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WRITTEN PUBLIC COMMENTS

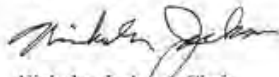
July 22, 2022

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

Dear Mr. Matuskowitz:

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

Respectfully,



Nicholas Jackson, Chair
Customary & Traditional Committee
Ahtna, Incorporated

Enclosure as noted

2023-2025 Federal Fisheries Proposals

FP23-14

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

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

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

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

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

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

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

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

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

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

Comments:

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

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

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

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

FP23-15/16

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

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

Proposed regulation:

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

Explanation of Proposal:

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

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

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

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

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

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

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

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

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

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

Potential Concerns: None

Effects on Subsistence Users:

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

Comments:

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

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

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

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

Page 5 of 9

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

FP23-17/18

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

The issue we would like addressed:

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

50 CFR § 100.27(e)(11)(ix):

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

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

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

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

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

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

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

Comments:

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

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

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

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

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

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

FP23-19

Name, address, telephone number of requestor:

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

The issue we would like addressed:

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

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

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

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

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

Why is the proposed change needed?

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

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

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

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

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

Comments:

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

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

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

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

Respectfully,



Nicholas Jackson, Chair
Customary & Traditional Committee
Ahtna, Incorporated

Attachment as noted

Page 9 of 9

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



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

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

May 17, 2022

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

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

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

Dear Board Members,

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

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

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

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

¹ 50 C.F.R. § 100.20(D).

www.ahtna.com

Federal Subsistence Board
May 17, 2022
Page 2

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

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

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

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

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

³ 50 C.F.R. § 100.10(4)(xviii).

⁴ 50 C.F.R. § 100.20(d).

⁵ *Id.*; see 5 AAC 24.360(b).

⁶ 5 AAC 01.616(b)(1)(A).

⁷ 5 AAC 01.616(b)(1)(B).

Federal Subsistence Board
May 17, 2022
Page 3

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

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

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

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

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

⁸ 5 AAC 01.616(b)(1)(C).

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

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

¹¹ See FMR No. 21-07, p. 59.

Federal Subsistence Board
May 17, 2022
Page 4

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

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

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

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

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

Federal Subsistence Board

May 17, 2022

Page 5

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

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

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

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

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

¹⁴ 5 AAC 01.616(b)(2)(A).

¹⁵ 5 AAC 01.616(b)(2)(B).

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

¹⁷ *Id.*

Federal Subsistence Board

May 17, 2022

Page 6

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

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

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

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

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

¹⁸ OSM Staff Analysis, p. 26.

¹⁹ OSM Staff Analysis, p. 26.

²⁰ OSM Staff Analysis, p. 25.

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

Federal Subsistence Board

May 17, 2022

Page 7

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

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

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

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

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

²² 5 AAC 01.610(g).

²³ 50 C.F.R. § 100.10(e)(1).

Federal Subsistence Board
May 17, 2022
Page 8

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

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

Conclusion

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

Respectfully submitted,



Michelle Anderson, President
Ahtna, Incorporated



Ahtna Intertribal Resource Commission

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

July 25, 2022

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

Dear Chairman Anthony Christianson:

Introduction

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

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

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

Tsin'aen

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

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

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

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

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

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

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

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

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

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

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

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

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

Tsin'aen,


Karen Linnell
Executive Director

Native Village of Eyak

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



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

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

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

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

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

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

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

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

Respectfully,

Mark Hoover
Tribal Council Chairman
Native Village of Eyak

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

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

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

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

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

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

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

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

Sincerely,

Lance Westing

PO BOX 1045
798 Chase Avenue
Cordova, AK 99574

The following is from 2021:

RE: FP21-10

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

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

These are my reasons:

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

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

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

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

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

What follows is some contextual information:

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

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

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

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

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

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

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

Sincerely,

Lance Westing

PO BOX 1045
798 Chase Avenue
Cordova, AK 99574

FP23-19 Rescind Lower Copper River Area Salmon Fishery

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

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

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

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

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

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

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

FP23-19 Rescind Lower Copper River Area Salmon Fishery

Jesse Carter

P.O. Box 2771

Cordova, AK 99574

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

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

Sincerely,

Jesse Carter

FP23-19 Rescind Lower Copper River Area Salmon Fishery

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

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

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

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

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

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

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

APPENDIX 1

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

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

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

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

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

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

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

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

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

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

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

APPENDIX 2

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

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

^a Numbers are from fish ticket data.

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

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

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

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

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

FP23–14 Executive Summary	
General Description	FP23-14 requests to add residents of the Serendipity subdivision to the customary and traditional use determination for salmon in the Chitina Subdistrict of the Upper Copper River District. <i>Submitted by: residents of Serendipity subdivision</i>
Proposed Regulation	<p>Prince William Sound Area - Salmon</p> <p><i>Chitina Subdistrict of the Upper Copper River District</i></p> <p><i>Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Richardson Highway between mile posts 45 and 47, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.</i></p>
OSM Preliminary Conclusion	Support
Southcentral Regional Advisory Council Recommendation	
Eastern Interior Regional Advisory Council Recommendation	

FP23–14 Executive Summary	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	2 Opposed

DRAFT STAFF ANALYSIS
FP23-14

ISSUES

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

DISCUSSION

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

Existing Federal Regulation

Prince William Sound Area - Salmon

Chitina Subdistrict of the Upper Copper River District

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

Proposed Federal Regulation

Prince William Sound Area - Salmon

Chitina Subdistrict of the Upper Copper River District

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

Extent of Federal Public Lands and Waters

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

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

Regulatory History

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

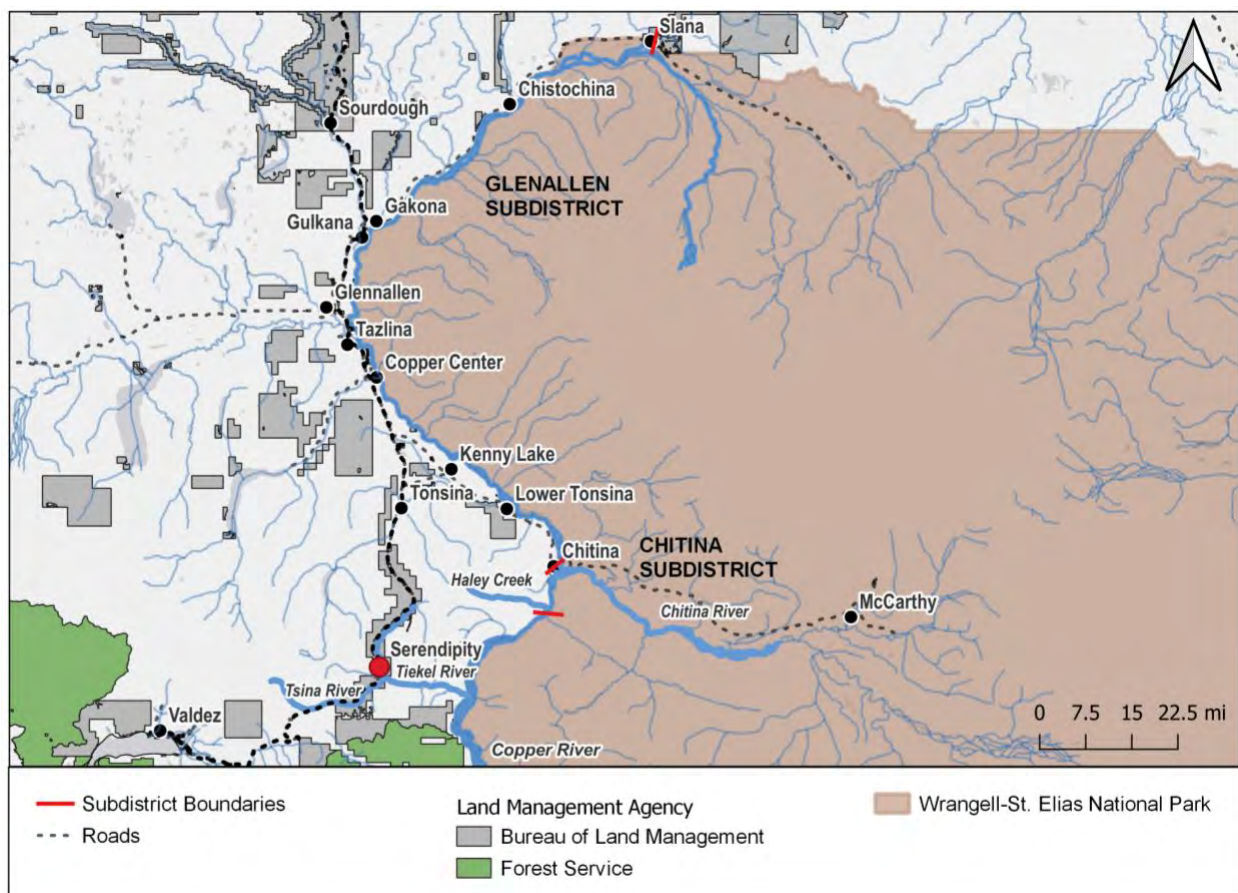


Figure 1. Upper Copper River drainage, showing exterior boundary of Wrangell-St. Elias National Park and Preserve as well as the Chitina and Glennallen Subdistricts of the Upper Copper River District.

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

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

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

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

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

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

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

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

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

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

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

Community Characteristics

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

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

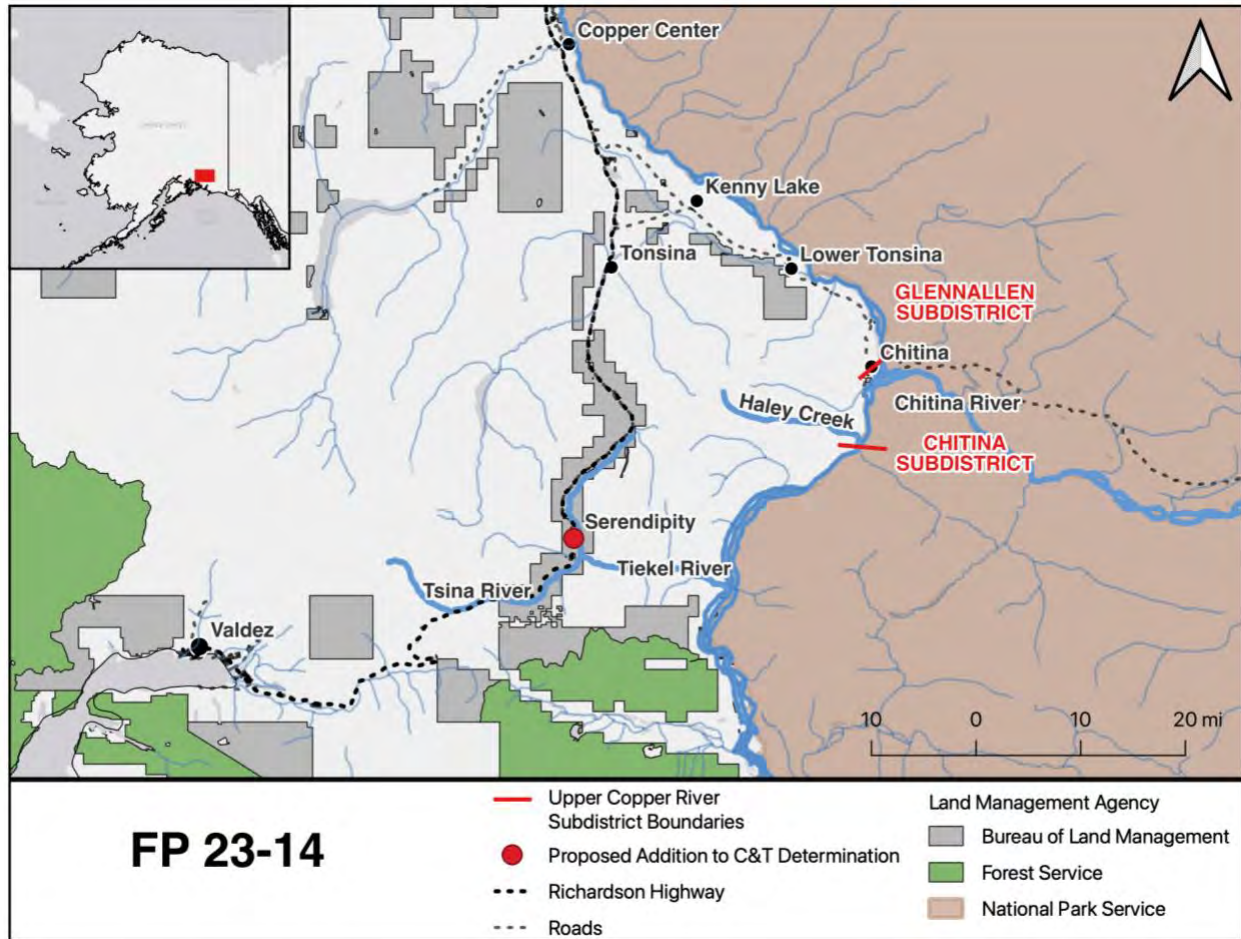


Figure 2. Serendipity Subdivision Vicinity Map

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

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

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

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

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

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

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

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

Eight Factors for Determining Customary and Traditional Use

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

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

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

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

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

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

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

Effects of the Proposal

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

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

OSM PRELIMINARY CONCLUSION

Support Proposal FP23-14.

Justification

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

LITERATURE CITED

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

WRITTEN PUBLIC COMMENTS

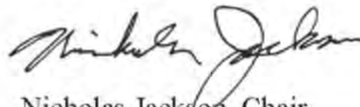
July 22, 2022

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

Dear Mr. Matuskowitz:

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

Respectfully,



Nicholas Jackson, Chair
Customary & Traditional Committee
Ahtna, Incorporated

Enclosure as noted

Comments:

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

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

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

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

- *Ahtna, Incorporated Customary and Traditional Committee*



Ahtna Intertribal Resource Commission

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

July 25, 2022

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

Dear Chairman Anthony Christianson:

Introduction

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

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

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

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

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

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

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

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

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

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

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

- Ahtna Intertribal Resource Commission

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

FP23–15/16 Executive Summary	
Eastern Interior Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	2 oppose, 1 support with modification

**DRAFT STAFF ANALYSIS
FP23-15/16**

ISSUES

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

DISCUSSION

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

Existing Federal Regulation

Prince William Sound Area - Salmon

Chitina Subdistrict of the Upper Copper River District

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

Proposed Federal Regulation

Prince William Sound Area - Salmon

Chitina Subdistrict of the Upper Copper River District

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

Extent of Federal Public Lands and Waters

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

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

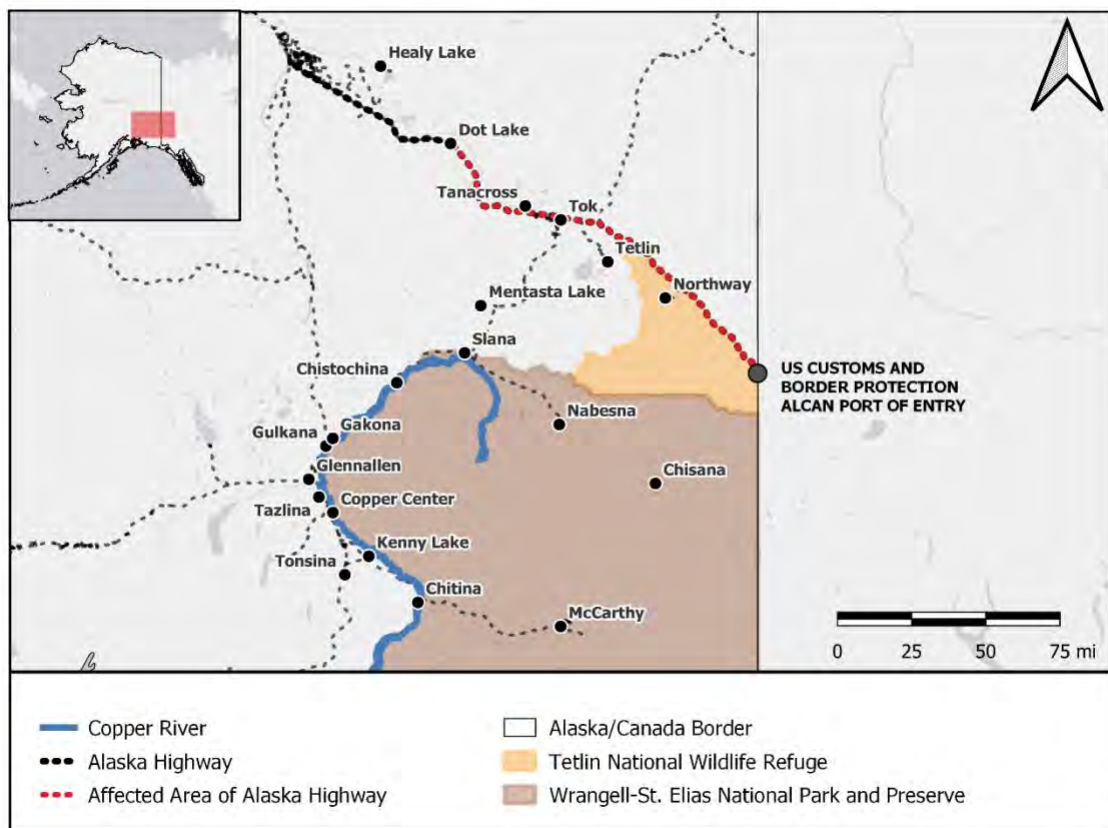


Figure 1: The area affected by this proposal includes the households between the named communities, Northway, Tetlin, Tok and Tanacross, along the Alaska Highway from the U.S./ Canada border to Dot Lake.

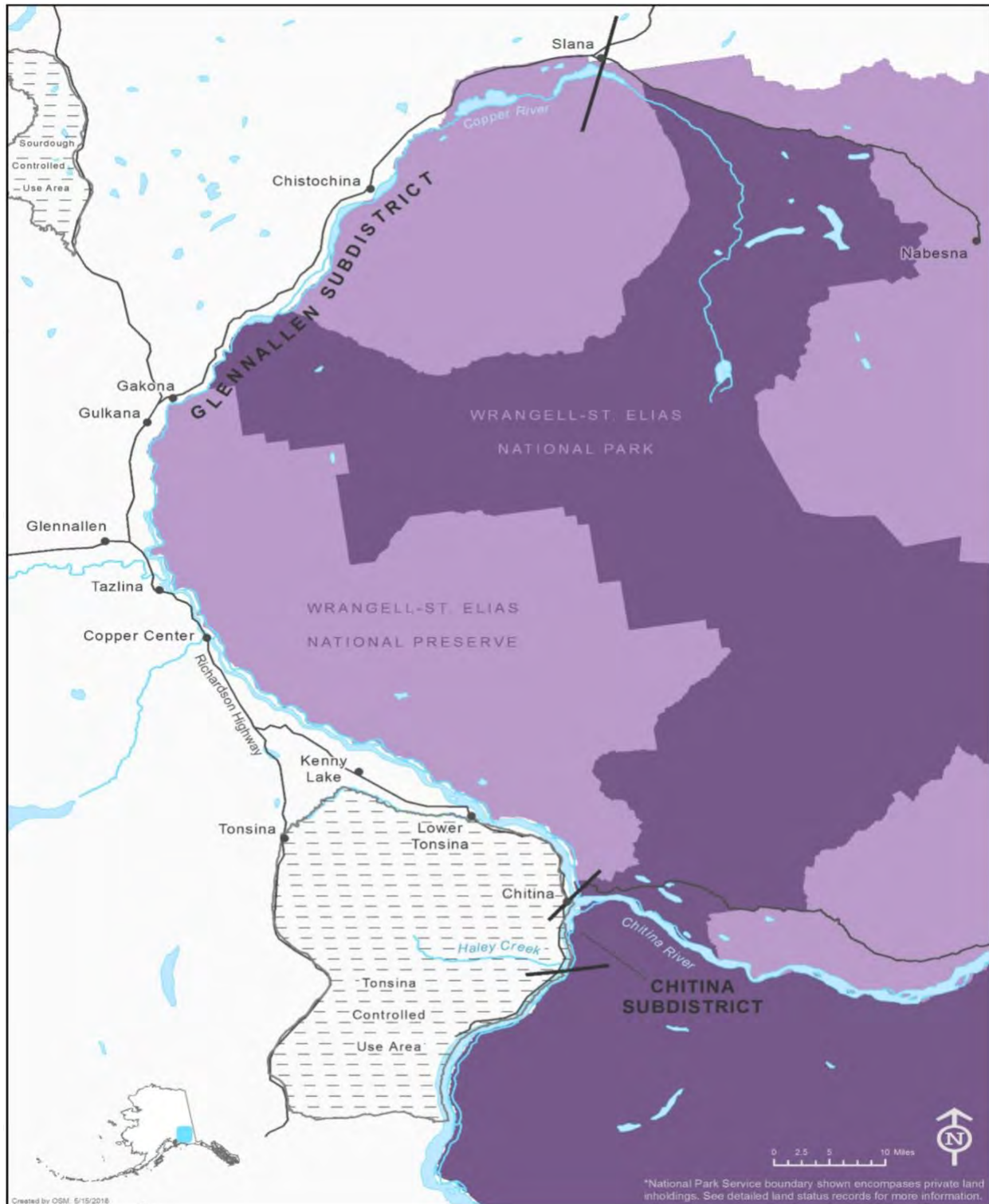


Figure 2: Upper Copper River drainage, showing exterior boundary of Wrangell-St. Elias National Park and Preserve as well as the Chitina and Glennallen Subdistricts of the Upper Copper River District.

Regulatory History

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

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

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

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

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

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

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

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

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

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

Community Characteristics

The subsistence practices of the communities with customary and traditional use determinations for salmon in the Chitina Subdistrict are a blend of Ahtna and Upper Tanana Athabascan traditions and those

of Euroamerican settler/homesteaders. The customary and traditional uses of salmon from the Chitina Subdistrict by the Alaska Highway/Upper Tanana communities of Northway, Tetlin, Tok, Tanacross and Dot Lake are documented in a previous proposal analysis adopted by the Board (FP02-16). The households of the permanent rural residents who live along the Alaska Highway between these communities state that they practice the same subsistence way of life and that they are connected to these communities by kinship, proximity and economy.

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

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

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

The subsistence harvests of Northway, Tetlin, Tok, Tanacross, and Dot Lake are similar but not identical and fluctuate annually depending on weather and resource availability. The only subsistence baseline survey of all five of these communities during the same year was conducted by ADF&G during a one-year study period from June 1987-May 1988 (Marcotte 1991). In this study, all five Upper Tanana communities included residents who either used, received, shared, and/or harvested Copper River salmon (Marcotte 1990:70). Estimated subsistence harvests for all five communities collectively included 48,000 pounds of salmon (primarily Chinook salmon and sockeye salmon), 103,902 pounds of nonsalmon fish (primarily whitefish and pike), 121,261 pounds of large land mammals (primarily caribou and moose), 16,610 pounds of small land mammals and fur bearers (primarily hare), 9,812 pounds of birds and 7,338 pounds of edible plants for a total of 307,017 pounds of subsistence foods (Marcotte 1991:68). Individually, Dot Lake harvested an estimated 7,555 pounds of subsistence foods including 1,329 pounds of salmon; Tanacross harvested 23,287 pounds of subsistence foods including 3,598 pounds of salmon; Tok harvested 161,317 pounds of subsistence foods including 38,147 pounds of salmon; Tetlin harvested 24,767 pounds of subsistence foods total including 286 pounds of salmon and Northway harvested 90,091 pounds of subsistence foods including 4,684 pounds of salmon (Marcotte 1991:68). Tetlin salmon harvest

is low because at the time of this research, Tetlin was not accessible by road and residents could not easily access the Copper River.

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

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

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

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

and nonsalmon fish, he and his family harvest caribou, moose, berries and other wild resources which they share and exchange with family and neighbors in other communities. His sharing practices extend to relatives in Northway and Tetlin. He said that the U.S. Customs and Border Protection Alcan Port of Entry is not a community but that a few of the people who work there live in nearby communities or along the highway and come from local families. When asked specifically, Chair Wilson said he would not want to exclude the people who live and work at the Border Port of Entry (Wilson 2022, pers. comm.).

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

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

Eight Factors for Determining Customary and Traditional Use

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

shared or distributed within a definable community of persons; and (8) a pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

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

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

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

Effects of the Proposal

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

and sport fishing regulations. Federal regulations, however, provide more flexibility and higher harvest amounts which is supportive of more accessible subsistence harvest opportunity.

OSM PRELIMINARY CONCLUSION

Support Proposal FP23-15/16.

Justification

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

LITERATURE CITED

- Bayless, S. 2022. Refuge Manager, Tetlin NWR. Personal communication: phone and email. June 9, 10, 2022 U.S Fish and Wildlife Service. Tok, AK.
- De Laguna F. and McClellan, C. 1981. Ahtna. In Handbook of North American Indians. Vol. 6: Subarctic. J. Helm, ed. Smithsonian Institution, Washington D.C. pp. 641-663.
- Godduhn, A. and M. Kostick. 2016. Harvest and use of wild resources in Northway, Alaska, 2014 with special attention to nonsalmon fish. ADF&G, Div. of Subsistence Tech. Paper No. 421. Fairbanks, AK.
- Haynes, T., M. Case, J. Fall, L. Halpin, and M. Robert. The use of Copper River salmon and other wild resources by Upper Tanana communities. ADF&G, Div. of Subsistence Tech. Paper No. 115. Fairbanks, AK.
- Holen, D, S.M. Hazell, and G. Zimpelman. 2015. The harvest and use of wild resources in selected communities of the Copper River Basin and East Glenn Highway, Alaska, 2013. ADF&G, Div. of Subsistence Tech. Paper No. 405. Anchorage, AK.
- Holen, D., S. Hazell and D. Koster. 2012. Subsistence harvests and uses of wild resources by communities in the Eastern Interior of Alaska, 2011. ADF&G, Div. of Subsistence Tech. Paper No. 372. Anchorage, AK.
- Kumher, G. 2022. Homesteader. Personal communication: phone. June 9, 2022. Thirty-three miles east of Tok, AK.
- Marcotte, J. 1991. Wildlife fish and game harvest and use by residents of five Upper Tanana communities, Alaska 1987-88. ADF&G, Div. of Subsistence Tech. Paper No. 168. Juneau, AK.
- McKenna, R. A. 1981. Tanana. In Handbook of North American Indians. Vol. 6: Subarctic. J. Helm, ed. Smithsonian Institution, Washington D.C. pp. 562-576.
- OSM. 2001. Staff analysis FP02-16. Pages 73-96 *in* Federal Subsistence Board Meeting Materials. December 11-13, 2001. Office of Subsistence Management, USFWS. Anchorage, AK. 679 pp.
- Paul, M. 2022. Tribal member, Northway Village and USFWS refuge employee, Tetlin NWR. Personal communication: phone. June 10, 2022. Alaska Highway Mile Post XX (30 miles from Northway).

Reckord, H. 1983a. That's the way we live: subsistence in the Wrangell-St. Elias National Park and Preserve. Anthropology and Historic Preservation, Cooperative Park Studies Unit, University of Alaska Fairbanks.

Reckord, H. 1983b. Where Raven Stood: Cultural Resources of the Ahtna Region. Anthropology and Historic Preservation, Cooperative Park Studies Unit, University of Alaska Fairbanks.

Simeone, W. E. and J. A. Fall. 1996. Patterns and Trends in the Subsistence Salmon Fishery of the Upper Copper River, Alaska. Report to the Alaska Board of Fisheries.

Strong, B. Historical sequence of the patterns of production of Ahtna Athabascan Indians of the Upper Copper Valley, Alaska: The development of capitalism in Alaska. Unpublished Ph.D. Diss., Montreal: McGill University.

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

WRITTEN PUBLIC COMMENTS

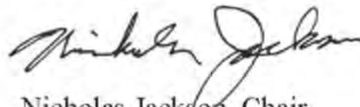
July 22, 2022

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

Dear Mr. Matuskowitz:

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

Respectfully,



Nicholas Jackson, Chair
Customary & Traditional Committee
Ahtna, Incorporated

Enclosure as noted

Comments:

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

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

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

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

Page 5 of 9

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

- *Ahtna, Incorporated Customary and Traditional Committee*



Ahtna Intertribal Resource Commission

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

July 25, 2022

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

Dear Chairman Anthony Christianson:

Introduction

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

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

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

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

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

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

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

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

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

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

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

- Ahtna Intertribal Resource Commission

[EXTERNAL] Comment on proposal FP23-15/16

Tom Geyer <tcgeyer@gmail.com>

Mon 7/25/2022 10:58 AM

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

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

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

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

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

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

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



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

Our Culture unites us; Our Land Sustains us; Our People are Prosperous

May 17, 2022

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

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

RE: Request for Reconsideration of FP21-10

Dear Board Members,

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

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

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

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

¹ 50 C.F.R. § 100.20(D).

Federal Subsistence Board

May 17, 2022

Page 2

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

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

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

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

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

³ 50 C.F.R. § 100.10(4)(xviii).

⁴ 50 C.F.R. § 100.20(d)

⁵ *Id.*; see 5 AAC 24.360(b).

⁶ 5 AAC 01.616(b)(1)(A).

⁷ 5 AAC 01.616(b)(1)(B).

Federal Subsistence Board

May 17, 2022

Page 3

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

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

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

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

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

⁸ 5 AAC 01.616(b)(1)(C).

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

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

¹¹ See FMR No. 21-07, p. 59.

Federal Subsistence Board

May 17, 2022

Page 4

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

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

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

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

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

Federal Subsistence Board

May 17, 2022

Page 5

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

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

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

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

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

¹⁴ 5 AAC 01.616(b)(2)(A).

¹⁵ 5 AAC 01.616(b)(2)(B).

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

¹⁷ *Id.*

Federal Subsistence Board

May 17, 2022

Page 6

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

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

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

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

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

¹⁸ OSM Staff Analysis, p. 26.

¹⁹ OSM Staff Analysis, p. 26.

²⁰ OSM Staff Analysis, p. 25.

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

Federal Subsistence Board

May 17, 2022

Page 7

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

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

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

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

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

²² 5 AAC 01.610(g).

²³ 50 C.F.R. § 100.10(e)(1).

Federal Subsistence Board

May 17, 2022

Page 8

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

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

Conclusion

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

Respectfully submitted,



Michelle Anderson, President
Ahtna, Incorporated

Fisheries Resource Monitoring Program (FRMP)

2024 Overview

Quick Info

- Established in 2000
- Focuses on subsistence fisheries on Federal public waters in Alaska
- Solicits proposals every 2 years. Projects may be awarded up to 4 years of funding.
- See the Fisheries Resource Monitoring Program webpage for more information.

What is the FRMP?

The Office of Subsistence Management (OSM) funds research to provide information that can help manage subsistence fisheries on Federal Public Waters in Alaska. *Projects may only focus on harvest monitoring, traditional ecological knowledge, 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. Regional Advisory Council (RAC) members help develop potential PINs throughout the summer before a FRMP cycle. Potential PINs are then discussed and finalized during the fall RAC meetings. Finalized PINs are included in the FRMP project solicitations and ultimately influence the direction of the Monitoring Program.

FRMP Timeline

March-November 2022: Develop potential PINs. Finalize potential PINs at Council meetings.

December 2022: Call for proposals.

February – May 2023: Review Proposals.

September – November 2023: Councils, Interagency Science Commission (ISM), and OSM provide comments.

January 2024: Federal Subsistence Board (FSB) reviews.

February 2024: Proposals selected.

May - July 2024: Projects Begin.

Southcentral Region FRMP Projects Since 2000

Project Number	Project Title	Investigators
Copper River Salmon Projects		
00-013	Tanada Creek Salmon Escapement	NPS
00-034	Miles Lake Sonar Improvements	USFS, ADF&G
00-040	Copper River Salmon Subsistence Fishery Evaluations	ADF&G, CRNA
01-020	Copper River Chinook Feasibility of Abundance Estimate	NVE, LGL
01-021	Lower Copper River In-season Abundance Estimate	NVE, LGL, ADF&G
01-217	Copper River Groups Capacity Building Workshop	CRNA, LGL
02-015	Copper River Chinook Salmon Radio Telemetry	ADF&G, LGL
03-010	Upper Copper River C&T Fish Harvests GIS Atlas	CRNA, LGL
04-501	Long Lake Sockeye Salmon Escapement	NPS, CRWP
04-502	Tanada Creek Salmon Escapement	NPS
04-503	Copper River Chinook Salmon Abundance Estimate	NVE, LGL
04-506	Lower Copper River In-season Abundance Estimate	NVE, LGL, ADF&G
04-507	Copper River Chinook Salmon Genetics	ADF&G, NVE, NPS
04-553	Copper River Salmon Knowledge of Long Term Changes	ADF&G, NVE
05-501	Copper River Sockeye Salmon Spawning Distribution	NVE, ADF&G
06-502	Copper River Sockeye Salmon In-river Abundance	NVE, ADF&G
07-502	Tanada Creek Salmon Weir	NPS
07-503	Copper River Chinook and Sockeye Salmon Abundance	NVE
07-505	Long Lake Salmon Weir	NPS, PWSSC
08-501	Copper River Sockeye Salmon Abundance	NVE, LGL
10-502	Tanada Creek Salmon Assessment	NPS
10-503	Copper River Chinook Salmon Assessment	NVE, LGL
10-505	Long Lake Salmon Assessment	NPS
10-552	Copper River Subsistence Harvest Validation	HDR, ECO, ADF&G
12-500	Copper River Chinook Salmon RFID Feasibility	NVE, LGL
12-550	Upper Copper R. Changing Environments & Subsistence	ECO, ADF&G
14-501	Long Lake Salmon	NPS
14-503	Tanada Creek Salmon	NPS
14-505	Copper River Chinook Salmon Fish Wheels	NVE
18-501	Gulkana River Sockeye Salmon Harvest Contribution	ADF&G, CRITR
18-504	Copper River Chinook Salmon Abundance	NVE
20-501 ^a	<i>Klutina River Sonar Pilot Project</i>	NVE, AITRC
20-502 ^a	<i>Abundance and Run Timing of Salmon in Tanada</i>	NPS
22-504 ^a	<i>Copper River Chinook Salmon In-River Abundance</i>	NVE
Copper River Steelhead Projects		
01-035	Copper River Steelhead Harvest Monitoring	NPS, CRNA
01-148	Copper River Steelhead Stock Status	ADF&G, CRNA, USFWS
03-001	Copper River Steelhead Population Biology	ADF&G

05-502	Copper River Steelhead Abundance	ADF&G, NVE
Copper River Freshwater Species Projects		
01-110	Copper River Non-Salmon Species Harvest and Use	CRNA, ADF&G, CHVC, CNTC, Karie, MTC
02-077	Upper Copper River Increasing GIS Capabilities	CRNA
07-501	Tanada and Copper Lakes Burbot Abundance	NPS, ADF&G, MTC
Copper River Eulachon Projects		
02-075	Eulachon Subsistence Harvest Opportunities	NVE, USFS, ADF&G
Prince William Sound Salmon Projects		
00-035	Coghill Coho Salmon Weir	ADF&G, USFS
02-028	Chugach Region TEK Mapping	CRRC
03-033	Billy's Hole, PWS Salmon Stock Assessment	ADF&G, CRRC, USFS
Cook Inlet Area Projects		
00-038	Cooper Creek Dolly Varden Assessment	ADF&G
00-041	Turnagain Arm Eulachon Subsistence Use and Assessment	USFS
03-045	Cook Inlet Subsistence Fisheries Harvest Assessment	ADF&G
07-506	Tustumena Lake Coho Salmon Spawning Assessment	USFWS
07-507	Kasilof Watershed Coho Salmon Radio Telemetry	USFWS
07-509	Kasilof Watershed Steelhead Trout Radio Telemetry	USFWS
08-502	Tustumena Lake Coho Salmon Assessment	USFWS
08-503	Kasilof River Steelhead Radio Telemetry	USFWS
08-504	Crooked and Nikoli Creeks Steelhead Weirs	USFWS

a = On-going projects during 2022.

Abbreviations used for investigators are: **ADF&G** =Alaska Department of Fish and Game, **AITRC** = Ahtna Intertribal Resource Commission, **CNTC** = Cheesh'na Tribal Council, **CRITR** = Copper River Intertribal Resource Commission; **CRNA** = Copper River Native Association, **CRRC** = Chugach Regional Resources Commission, **CRWP** = Copper River Watershed Project, **ECO** = Ecotrust, **USFS** = U.S. Forest Service, **Karie** = Dr. James Karie, **LGL** = LGL Ltd, **MTC** = Mentasta Tribal Council, **NPS** = National Park Service, **NVE** = Native Village of Eyak, **PWSSC** = Prince William Sound Science Center, and **USFWS** = U.S. Fish and Wildlife Service.

DRAFT 2024 Southcentral Region Fisheries Resource Monitoring Program
Priority Information Needs

- Estimate abundance, run timing, spawning site fidelity, and age, sex, and length composition for Chinook and Coho salmon that stage or spawn in waters of Kenai Peninsula drainages under Federal subsistence fishery jurisdiction
- Estimate Chinook, Coho, and Sockeye salmon escapements into the Copper River drainage and delta systems with a high degree of certainty (for example projects utilizing weir, sonar, and/or mark-recapture methods)
- Develop, test, and implement methods for monitoring escapement and/or mortality of Sockeye Salmon in the Copper River drainage and delta systems, including assessment of predation
- Estimate “quality of escapement” measures such as fecundity, age, sex, and size to help inform salmon management in the Copper River and Kenai Peninsula drainages
- Understand effects of environmental and/or climate change on stock specific migration timing and abundance of adult salmon, as well as the implications for harvest management, in the Copper River and Kenai Peninsula drainages using sonars and tagging
- Collect baseline information on juvenile Sockeye Salmon outmigration, timing, abundance, condition, and mortality across the unique sub-watersheds of the Copper River and the Kenai Peninsula drainages

Follow and “Like” us on Facebook!
www.facebook.com/subsistencealaska

