



SOUTHEAST ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL Meeting Materials

*October 25-27, 2022
Ketchikan*



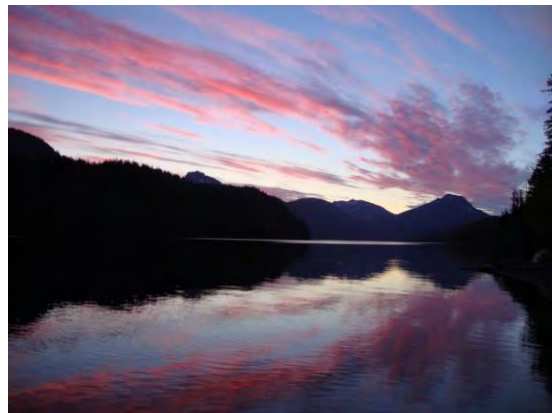
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Light clouds are rolling in just as the sun sets in Hasselborg Lake, Admiralty Island National Monument, Tongass National Forest, Alaska.



Forest Service photo by Matthew Thompson

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SOUTHEAST SUBSISTENCE REGIONAL ADVISORY COUNCIL

Cape Fox Lodge
Ketchikan, Alaska

October 25-27, 2022, convening at 9:00 a.m. daily

TELECONFERENCE: call the toll free number: **1-866-692-3163**, then when prompted enter the passcode: **48773479**.

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*)

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c. Special Actions (*Rob Cross, USFS*) 34

d. Sitka Kaagwaantaan Petition for Extra Territorial Jurisdiction Update (*Greg Risdahl*)

e. Indigenous Management Letter (*Don Hernandez*)..... 35

f. Unit 2 Wolf Update

- ESA Petition Status Update (*Doug Cooper, USFWS*)

Agenda

- g. Unit 4 Deer Proposals
(WP22-07, WP22-08, WP22-10 deferred by the Board) (*Rob Cross*)supplemental

10. New Business (Chair)

- a. Southeast Federal Subsistence Fisheries Report (*USFS*)
- b. Fisheries Proposals and Closure Reviews* (*USFS, OSM*) 41

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- g. Harvest of wildlife for sport purposes in National Preserves* (*NPS*)
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- i. Fall 2022 Council application/nomination open season (*Council Coordinator*)
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- k. Virtual Council Meeting Costs (*OSM*)
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11. Agency Reports

(Time limit of 15 minutes unless approved in advance)

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- U.S. Forest Service
- Alaska Department of Fish and Game
- Office of Subsistence Management

12. Future Meeting Dates*

Confirm winter 2023 meeting date and location (*Feb 28 – March 2, 2023 in Juneau*) 136
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13. Closing Comments

14. Adjourn (*Chair*)

To call into the meeting, dial the toll free number: **1-866-692-3163**, then when prompted enter the passcode: **48773479**

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 DeAnna Perry, 907-209-7817, deanna.perry@usda.gov, or 800-877-8339 (TTY), by close of business on October 11, 2022.

DRAFT

REGION 1

Southeast Alaska Subsistence Regional Advisory Council

Seat	Year Appointed <i>Term Expires</i>	Member Name and Community
1	2021 2022	Ian A. Johnson <i>Hoonah</i>
2	2004 2022	Frank G. Wright Jr. <i>Hoonah</i> Secretary
3	2021 2022	Calvin H. Casipit <i>Gustavus</i>
4	2000 2022	Michael A. Douville <i>Craig</i>
5	2021 2022	James C. Slater <i>Pelican</i>
6	2021 2023	Robert F. Schroeder <i>Juneau</i>
7	2021 2023	Albert H. Howard <i>Angoon</i>
8	2002 2023	Donald C. Hernandez <i>Point Baker</i> Chair
9	2022 2024	Patricia A. Phillips <i>Pelican</i>
10	2022 2024	Louie A. Wagner, Jr. <i>Metlakatla</i>
11	2021 2023	Harvey Kitka <i>Sitka</i>
12	2022 2024	John Smith, III <i>Juneau</i>
13	2009 2024	Cathy A. Needham <i>Juneau</i> Vice-Chair

SOUTHEAST SUBSISTENCE REGIONAL ADVISORY COUNCIL

Meeting Minutes

Via Teleconference/Videoconference
March 22-24, 2022

Call to Order, Roll Call and Quorum Establishment

The meeting was called to order Tuesday, March 22, 2022, at approximately 9:00 a.m. Council members Calvin Casipit, Michael Douville, Donald Hernandez, Albert Howard, Ian Johnson, Harvey Kitka, Cathy Needham, Patricia Phillips, Robert Schroeder, James Slater, John Smith, Louie Wagner, and Frank Wright were present. A quorum was established with 13 of 13 seated Council members participating by phone/videoconference during this meeting.

Attendees participating via teleconference:

- Office of Subsistence Management (OSM): ***Tom Kron, Pippa Kenner, Jason Roberts, Orville Lind, Justin Koller, and Lisa Grediagin***
- USDA - Forest Service (USFS): ***Earl Stewart, DeAnna Perry, Greg Risdahl, Rob Cross, Gregory Dunn, Susan Oehlers, Jake Musslewhite, Laurent Deviche, Jennifer Hanlon, Marci Johnson, Taylor Cunningham, and Sheila Jacobsen***
- Central Council Tlingit & Haida (CCTHITA): ***Marco Banda and Ray Paddock***
- Bureau of Indian Affairs (BIA): ***Glenn Chen and Pat Petrivelli***
- U.S. Fish & Wildlife Service: ***Jill Klein and Amy Kirkham***
- National Park Service (NPS), Anchorage: ***Victoria Florey***
- Wrangell-St. Elias National Park and Preserve (NPP), NPS: ***Barbara Cellarius***
- Tongass Women's Earth and Climate Action Network: ***Wanda Culp***
- Salomon Beyond Borders: ***Jill Weitz***
- Alaska Department of Fish and Game (ADF&G): ***Mark Burch, Frank Robbins, Lauren Sill, Amy Witta, and Flip Pryor***
- Members of the Public: ***James Phillips, Wendy Steinberg, Joel Jackson, Matt Johnson, Judith Eaton, Rick Nelson, Orielle Osprey, S Bethune, Tony Gallegos, R Havaleh, Amy Wiita, and Wendy Steinberger***

Moment of Silence

The Council observed a moment of silence in memoriam of former Council member, Harold Robbins, who passed away this past winter. Mr. Robbins had been a Council member since 2018.

Welcome and Introductions

Earl Stewart, Tongass National Forest Supervisor (USFS), thanked the Council members for their work and the value they add to the communities of Southeast Alaska. He then provided updates on several projects taking place on Forest Service lands and highlighted some of the partnerships with communities.

Review and Adopt Agenda

Motion by Mr. Harvey Kitka, seconded by Mr. Jim Slater, to adopt the agenda as a guide. The Council adopted the agenda with the following additional information noted:

10e: agenda item addition “2021 Council Charter Changes overview”

11f (Wrangell- St. Elias Subsistence Resource Commission) and 12c (ADF&G subsistence report and kelp farming presentation): Confirmed times certain

Election of Officers

Mr. Donald Hernandez was re-elected the Council’s Chair.

Ms. Cathy Needham was re-elected the Council’s Vice Chair.

Mr. Frank Wright was elected the Council’s Secretary.

Review and Approve Previous Meeting Minutes

Motion by Mr. Cal Casipit, seconded by John Smith, III, to approve the fall 2021 meeting minutes as written and included in the meeting book. The motion passed unanimously.

Council Member Reports

Ian Johnson of Hoonah reported that his area received a lot of snow this year: approximately seven feet at 1,000 feet elevation. There are concerns about the effect on deer populations because snow was predominate at sea level for a long time. His community is working on climate monitoring effect projects such as long-term stream temperature monitoring and snowpack monitoring for municipal water supply, salmon habitat, and hydro electric supply. He submitted a proposal to help address some concerns around stakeholder engagement re: deer population around north Chichagof Island and potentially western Admiralty Island. He is concerned about the Pink Salmon run this year due to the landslides from the heavy rains from December 2020 and the trickle-down effect this scouring event will have on the salmon return, subsistence and commercial fisheries, and the bears.

Frank Wright, Jr. of Hoonah reported that COVID-19 was still impacting Southeast communities. Regional sports teams couldn’t attend State tournaments because of the high levels of COVID-19 cases in their respective areas. He didn’t have a great Tanner Crab season, but the good prices helped make up for the low harvest. There was a lot of snow and cold temperatures in the area. Heating fuel was expensive. He shared traditional ecological knowledge about herring spawning on branches and Tlingit culture. He has gone to city council meetings to advocate for a recycling program in the area. Climate change is here.

Calvin Casipit of Gustavus reported that his community experienced a tough winter with a lot of snow. There is concern about the impact of the snow on deer. He informed everyone of the micro grant opportunity available through Alaska Department of Natural Resources for projects regarding food security like greenhouses and chicken coops. He encouraged people who are concerned about food security in their communities to explore this and he provided the website link.

Michael Douville of Craig reported that there is concern on Prince of Wales Island with the pending Alexander Archipelago Wolf Endangered Species Act petition (AA-wolf petition). Trappers were able to harvest 64 wolves last season, which was under the amount needed to maintain the wolf population level (estimated at 323 last year). There seems to be no biological reason for listing the wolf as endangered. The community is looking forward to herring egg spawn and looking forward to the upcoming fishing season.

James Slater of Pelican reported that the community experienced two building collapses and damage to other structures due to the heavy snow this year. This snow has resulted in more deer mortality locally than he has ever witnessed. He heard that funding fell through for a proposed mine in the area so that will affect Lisianski Inlet, both economically and environmentally.

Robert Schroeder of Juneau reported that with changes taking place in Southeast Alaska, the Council will likely be more supportive of conservation and restoration of subsistence resources than in allocation of them. He has two major concerns: the climate catastrophe we are facing at this moment and the development of a policy on Indigenous management or co-management of natural resources.

Albert Howard of Angoon clarified a comment he made in the last meeting regarding support for proposals. He reported community concerns about the King Salmon closure and shared that members are taking chances (that they normally wouldn't take if season was open full-time) to get King Salmon before the closure takes effect. Deer season was good, but there seemed to be more hunting pressure (even from residents as far away as Sitka), and he expounded on how important local resources were to local subsistence users. He is disturbed by the amount of bycatch/mortality from the amount of crab pots dumped in some community areas (specifically around Kake).

Donald Hernandez of Point Baker reported that Prince of Wales Island experienced uncharacteristically cold weather and snow in December and then heavy rains in January. Deer were concentrated in old growth timber close to the beaches, so it is hoped that the healthy canopy kept heavy snows from impacting too many deer. Berry bushes have leafed out this week. It was not a successful hunting season for many people in the community. He has not seen any herring wintering over in the bays. King Salmon fishing has not been very good.

Patty Phillips of Pelican shared traditional ecological knowledge of the impact of commercial fisheries on local resources. She reported an increase in bear activity in the community (*Ms. Phillips's cellular connection was broken up and much of her report was inaudible*).

Louie Wagner, Jr. of Metlakatla reported that since no cruise ships came into the area, the community enjoyed clams for the second year. He voiced concerns about the discharge of cruise ships' wastewater in the local waters and the need for subsistence users to travel out three miles from shore to avoid the resources contaminated by the wastewater. Salmon streams on the island are doing well except for dog (Chum) salmon. The cause may be the hatchery's weir across the stream. There are two small herring spawns on the island. He would like to see improvement in the organization of the allowance for Eulachon process, specifically regarding proxy harvesting, as there are people missing out on their fish.

Harvey Kitka of Sitka reported that there is a continuing concern for Sockeye Salmon runs in the area as some did not return. There are increased bear-human encounters with some bears charging people. There are observations of effects of climate change on various resources. There were previous issues with sea otters in the area (predation). Some of their seafoods, such as gumboots, are coming back. It is herring time, and they should have an indication of how well they are spawning by the weekend.

John Smith, III of Juneau reported that environmental conditions, such as clean air, have improved in the absence of cruise ships. He has observed sea lions, seals, geese, and other birds coming back into the area. He shared observations that he made during his work with local Tribes (the testing of contaminants in clams and cockles at various places). He is concerned about the water being very cold and the effect that the powerful watersheds have on natural medicines and food. He provided further traditional ecological knowledge about historical harvests in Hoonah, including herring. He voiced concerns about the amount of crab pots and how quickly King Crab could be decimated in one spot.

Cathy Needham of Juneau reported that she is just returning from attending the Alaska Board of Fisheries (BOF) meeting in Anchorage as the Council's representative. She informed the Council that the U.S. Fish and Wildlife Service reached out to obtain knowledge about wolves in the Southeast to integrate local and traditional knowledge into their decision making about the pending AA-wolf petition. She encouraged the Council to consider working with advisory committees to put in a halibut proposal to the National Marine Fisheries Service (NMFS) and perhaps a proposal to gather information on un-guided, non-resident sport fishermen harvest to close the current data gap.

Chair's Report – Don Hernandez advised that he would be attending and representing the Council at the upcoming Federal Subsistence Board (Board) wildlife regulatory meeting in April. He thanked Vice-Chair, Cathy Needham, for her attendance and excellent representation of the Council at the recent BOF meeting. He has attended meetings of the Deer Summit Steering Committee and led conversations for the Council's Indigenous Management Working Group meetings.

Old Business

Review WP22-06 (Establish quota and place restriction on Moose harvest limit (Unit 3)

Rob Cross, Acting Tongass National Forest Subsistence Coordinator, USFS, informed the Council of the need to revisit this proposal to review the OSM amendments necessary to fully implement the proposed regulation, enter the Wrangell Advisory Committee public comment into the record, and to receive clarification on prior testimony from Joel Jackson, President, Organized Village of Kake (OVK). The

previously proposed language “Recipients of a Federal draw permit are not eligible for a State Permit” could not be implemented as written because OSM cannot legally restrict harvesters from receiving a State permit. An amended proposed regulation was suggested:

“Unit 3 moose, one antlered bull with spike-fork or 50-inch antlers or three or more brow tines on either antler or antlers with two brow tines on both sides by State registration permit from September 15 to October 15 or Unit 3 Kupreanof and Kuiu Islands, one bull by Federal drawing permit. Only one moose permit may be issued per household. Successful hunters are required to send a photo of their moose antlers to ADF&G and a five inch section of lower jaw with front teeth, September 15th to October 15th.”

Motion by Ms. Needham, seconded by Ms. Phillips, to **support WP22-06 as written** (to supersede the prior recommendation from the Council). Motion failed unanimously.

The Council originally submitted the proposal WP22-06 to increase opportunity for subsistence users in Unit 3; however, it is now understood that the proposal could potentially have an unintended consequence of creating competition for Organized Village of Kake subsistence users for moose. If the proposal is amended, the potential for competition would remain, and this is contrary to this Council’s intent. The Council withdrew its support for the proposal and voted to oppose the proposal.

Wolf Update

Tom Schumacher, Regional Supervisor, ADF&G, addressed a question raised earlier in the meeting and reported that the most recent data shows that the number of wolves sealed in Unit 2 was 64. The season closed in early December due to snow and the Commissioner did not grant any requests to re-open the season. Mr. Schumacher concluded his remarks by thanking the trappers for their high compliance in providing tissue samples for DNA, which contributes to the determination of population estimates.

Alaska Board of Fisheries Update

Cathy Needham, Vice-Chair, provided a report from participation at the recent BOF meeting. The Council spent a significant amount of time during three separate meetings discussing and formulating proposals and comments for this meeting. She relayed the BOF’s decisions and reminded the Council of the opportunities to work other interested parties (AC’s, Tribes) for solutions to common-ground issues.

Council Member, Harvey Kitka, also informed the Council of his participation at the BOF meeting as spokesman for Sitka Kaagwaantaan clan, and he shared information on the issues/concerns regarding the current State herring management plan.

Indigenous Management Working Group Report

DeAnna Perry, Council Coordinator, USFS, provided a history of the Council’s Indigenous Management or Co-Management Work Group, which was formed in its winter 2021 meeting. It was created so that the Council could stay informed about various organizations’ efforts to pursue the Indigenous management/co-management of resources. The group has met five times and suggests that the Council develop a position statement on this issue. The Council voted to draft a position or policy statement to

request or address issues under the Federal Subsistence Management Program's (FSMP) jurisdiction and for the facilitation of appropriate changes in regulations.

Motion by Mr. Ian Johnson, seconded by Ms. Needham, to authorize a drafting committee to draft a document from the Council's discussion on co-management and then submit it to the Council for review and possible action at its fall meeting. Motion passed unanimously (12-0, 1 absent). Volunteers to serve on the drafting committee are Don Hernandez, Bob Schroeder, Cal Casipit, Ian Johnson, and John Smith, III.

Deer Summit Update

Don Hernandez, Chair, advised that he is representing the Council on a steering committee that is planning a deer summit to address management issues on Unit 2 (Prince of Wales Island). The summit would provide an opportunity for discussion on various topics relating to the success of deer hunters in Unit 2 and possible topics include status of deer populations, information on the latest research projects, habitat conditions, and road management. Considering the COVID-19 pandemic and future unknown mitigation plans, it is hoped that the summit will take place between summer seasonal activities and the hunting season.

Overview of 2021 Council Charter Changes

DeAnna Perry, USFS, provided a summary of the changes to the Council's charter as approved by the Board. For this Council, these included the 'carry-over terms' clause to allow members to continue to serve until new Secretarial appointments are made, and removal of two clauses in Section 4 with no relevance to the Council's duties and authorities under Title VIII of ANILCA.

New Business

Fisheries Resource Monitoring Program Information Update

Justin Koller, Fishery Biologist, OSM, presented the Council with the Fisheries Resource Monitoring Program (FRMP) update and advised that the 2022 FRMP funding cycle is in its final phase. The Council will be asked to identify and approve Priority Information Needs (PINs) for the 2024 FRMP cycle during its fall 2022 meeting. The purpose of PINs is to identify knowledge gaps and information needs for the management of subsistence fisheries for the Southeast region.

Federal Fisheries Closure Reviews

Justin Koller informed the Council that concurrent with the Federal fish and shellfish call for proposals, OSM Staff will conduct reviews of closures to Federal subsistence fisheries. OSM reviews half of all closures during each applicable regulatory cycle. Two closure reviews for the Southeast region will be up for review at the fall 2022 fisheries regulatory meeting.

Fisheries Report for Southeast Alaska

Jake Musslewhite, Fishery Biologist, USFS, presented a report to provide the most current Southeast fisheries harvest information available. Data and observations from FRMP and other sources throughout Southeast Alaska were given.

Call for Federal Fish and Shellfish Proposals

Justin Koller 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 Council discussed possible subjects for fishery proposals and the Council drafted a proposal for customary and traditional use (C&T) determination for shellfish for all Southeast Alaska and the Yakutat area so that resources such as clams can be identified as a subsistence fishing resource.

Motion by Mr. Casipit, seconded by Ms. Phillips, to **submit the C&T Proposal as written to OSM during the current Call for Fisheries Proposals**. The proposal requested C&T determination for all shellfish in all units in Southeast region for all rural residents. Motion passed unanimously (11-0, 2 absent).

The Council recognized that the C&T determinations adopted by the Board in 1990 were directly from the State of Alaska regulations and these did not include shellfish species that are the target of commercial fisheries. To address that issue of concern to many Southeast rural communities, the Council submitted this proposal to broaden C&T determination for all shellfish in the Southeast region. This submission is similar in basis to the Council's recent wildlife-based C&T determination submissions, which the Board determined aligned well with the current process followed statewide in the Program.

Call for Nonrural Determination Proposals

Pippa Kenner 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 nonrural determination proposal will be in 2026.

Wrangell-St. Elias Subsistence Resource Commission Appointment

Barbara Cellarius, Wrangell-St. Elias Subsistence Coordinator, NPS, reminded the Council of its opportunity to appoint a representative to the Wrangell-St. Elias Subsistence Resource Commission. Although the Council could appoint a primary representative as well as an alternate at this time, there are no eligible candidates as this Council could only appoint a resident of Yakutat.

Review and approve FY 2021 Annual Report

The Council unanimously approved the drafted fiscal year 2021 Annual Report to the Board. The Council included ‘information share’ items to make the Board aware of issues of interest to subsistence users in the Southeast as well as specific requests to the Board for information on other concerns. List of topics to be included in the Annual Report are:

1. Transboundary River Mining
2. Information sharing policy between OSM and ADF&G
3. Need for local knowledge to be included in OSM’s Recommendations
4. Public testimony and public comment policies clarification needed
5. Regulatory Analyses and Presentation Content – include cumulative effects
6. Request information on Mariculture Permitting – Effects on Subsistence Sensitive Areas
7. Council is working on a position statement re: co-management of subsistence resources
8. Support Continues for 2001 Alaska Roadless Rule
9. Attachment: Status of Fish and Wildlife Resources in Southeast (status harvest reports)

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

Tom Kron, Statewide Support Division Supervisor, OSM, and Robbin La Vine, Policy Coordinator, 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 provided feedback on the process and stated that this Council has worked hard to establish good credible communication with the Board and to create a strong public record and it believes that the current annual report reply process should not change.

Receiving Public Testimony Protocol – Guided Discussion

Tom Kron also 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’ and the book is posted on the FSMP web page
- Third opportunity: At the Regional Advisory Council meetings (the region that would be affected by the proposal)
- Fourth opportunity: During the Board meeting

The Council provided opinions on the comment submission policy, such as: there should be better public education regarding comment opportunities/processes and the capacity of supporting staff to handle whatever process is chosen (such as letter writing) should be considered.

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

Tom Kron 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 collecting of information from the public. OMB contacted OSM and tasked them with exploring the use of automated permits within the program. A few comments from the council included a reminder that many families/villages do not have internet service and to consider the time and possible special trips to a city/borough that may be required to obtain a permit.

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

Tom Kron 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. Greg Risdahl, Subsistence Program Coordinator, USFS, provided more background information and history of this issue which asked for the identity of Federal (submerged) lands that remain within Federal management authority for subsistence.

Public Testimony (for complete testimony, please review meeting transcripts for March 22-24, 2022, posted online: <https://www.doi.gov/subsistence/library/transcripts/1-southeast-alaska>)

Harvey Kitka, *Sitka Kaagwaantaan Clan*, inquired about the status of the Extra-Territorial Jurisdiction petition that the clan submitted to the Secretary of Agriculture.

Wanda Culp, *Tongass Women's Earth and Climate Action Network (WECAN)*, provided a presentation about Tongass-based solutions for food security issues.

Jill Weitz, *Salmon Beyond Borders*, provided an update on the work by the Southeast Alaska Indigenous Transboundary Commission to address mining impacts to transboundary rivers.

Joel Jackson, *President, Organized Village of Kake*, provided comments about BOF regulations and commercial crabbing and the negative impact that this is having on the subsistence harvest.

Matt Jackson, *Southeast Alaska Conservation Council (SEACC)*, informed the Council of SEACC's effort to gather input/solicit proposed solutions to ocean acidification, climate change, young growth transition, and other issues of concern.

Agency Reports:

- Central Council Tlingit and Haida: Raymond Paddock, Environmental Manager, and Marco Banda, Regional Resource Specialist, presented a report on the Guardians Network Program

- USFS:
 - Greg Risdahl provided the annual USFS-Subsistence Program report
 - Rob Cross provided information on four special actions and delivered a detailed overview of the 2020 State and Federal wildlife harvest for the region, with preliminary 2021 information
 - Jennifer Hanlon, new Tongass National Forest Tribal Relations Specialist, introduced herself and provided a few highlights of her program
 - DeAnna Perry provided highlights from a written report on the Southeast Alaska Sustainability Strategy Program (SASS), with a status of SASS projects and funding
- ADF&G:
 - Lauren Sill, Subsistence Resource Specialist, presented ADF&G Subsistence Report
 - Flip Pryor, Statewide Aquaculture Section Chief, delivered a comprehensive presentation on kelp farming
- Tom Kron, presented the Office of Subsistence Management 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.

Future Meeting Dates:

Fall 2022 meeting to be held October 25-27, 2022, in Ketchikan, if able to meet in person.

Winter 2023 meeting to be held February 28 – March 2, 2023, in Juneau, if able to meet in person.

DeAnna Perry, Designated Federal Officer
USDA Forest Service

Don Hernandez, Chair
Southeast Subsistence Regional Advisory Council

These minutes will be formally considered by the Southeast 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.



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. 22098.DP

SEPT 23 2022

Donald Hernandez, Council Chair
Southeast Alaska Subsistence Regional Advisory Council
c/o Office of Subsistence Management
1011 E. Tudor Road, M/S 121
Anchorage, AK 99503-6199

Dear Chair Hernandez,

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) and 36 CFR 242.10 (e)) provide that the Board generally defers to the recommendations of a Subsistence Regional Advisory Council (Council) regarding take unless, (1) the recommendation is not supported by substantial evidence, (2) the recommendation violates recognized principles of fish and wildlife management, or (3) adopting the recommendation would be detrimental to the satisfaction of subsistence needs. When a Council's recommendation is not adopted, the Board is required by Secretarial regulations to set forth the factual basis and reasons for the decision.

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

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

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 four proposals and one closure review affecting the Southeast Region, which the Board deferred to the Southeast Alaska Subsistence Regional Advisory Council (Council) recommendations as follows: the Board *rejected* **WP22-05**, which requested establishing a draw permit hunt for elk in the Etolin Island area of Unit 3; **WP22-06**, which requested establishing a Federal draw permit moose hunt with an any-bull harvest limit and a harvest quota of up to 20 bulls on Kupreanof and Kuiu Islands in Unit 3; and **WP22-09**, which requested closing deer hunting to non-Federally qualified users Oct. 15-Dec. 31 in Lisianski Strait, Lisianski Inlet, and a portion of Stag Bay in Unit 4.

The Board *adopted with modification* **WP22-11**, which removed regulatory language for mountain goat in Unit 5A stating "A minimum of 4 goats in the harvest quota will be reserved for Federally qualified subsistence users." The modification was to also remove the language describing an announcement of the harvest quota from unit-specific regulations and maintain in the delegation of authority letter only. The Board also voted to *maintain status quo* on **WCR22-02**, which reviewed the closure to moose hunting by non-Federally qualified users from Sep. 16-Sep. 30 in Unit 5A, except Nunatak Bench, east of the Dangerous River and from Oct. 8 – Nov. 15 in Unit 5A, except Nunatak Bench, west of the Dangerous River.

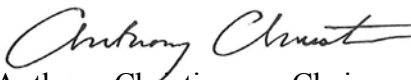
The remaining proposals and closure reviews affecting the Southeast Region appeared on the non-consensus agenda. However, for two of the proposals and one closure review, the Board took action consistent with the Council's recommendations. The Board *adopted with modification* **WP22-03**, which requires that all wolves taken in Unit 2 be sequentially numbered, marked with the date and location recorded by the hunter/trapper for each wolf, and that all hides must be sealed within 15 days of take. The Board *adopted* **WP22-04**, which established a year round elk season for Units 1, 2, 4 and the remainder of Unit 3 with a harvest limit of one elk by Federal registration permit. The Board also voted to *maintain status quo* on **WCR22-01**, which reviewed the closure for deer hunting by non-Federally qualified subsistence users from August 1 -15 in Unit 2, excluding the southeast portion (land south of the West Arm of Cholmondeley Sound draining into Cholmondeley Sound or draining eastward into Clarence Strait).

The Board deferred action on three proposals on the non-consensus agenda: **WP22-07**, **WP22-08**, and **WP22-10**. The Board's reasons to defer action 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 DeAnna Perry, Council Coordinator, at 907-209-7817 or deanna.perry@usda.gov.

Sincerely,



Anthony Christianson, Chair
Federal Subsistence Board

Enclosure

cc: Federal Subsistence Board
Southeast 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.

SOUTHEAST AREA WILDLIFE PROPOSALS

Regional Proposals

Wildlife Proposal WP22-07

DESCRIPTION: WP22-07 requested that the Federal public lands of Admiralty Island draining into Chatham Strait between Pt. Marsden and Pt. Gardner in Unit 4 be closed to deer hunting Sept. 15- Nov. 30, except to Federally qualified subsistence users.

COUNCIL RECOMMENDATIONS:

Southeast Alaska Subsistence Regional Advisory Council – **Support with modification** to remove USFS wildlife analysis areas 4044 and 4043 from the proposed closure area.

BOARD ACTION: **Defer**

JUSTIFICATION: The Board discussed deferring all Unit 4 deer proposals on the non-consensus agenda to provide an opportunity for more collaboration between the Office of Subsistence Management, Forest Service, and affected user groups to come up with more specific recommendations that address deer harvest issues in the area. The Board believed that fine-tuning a set of recommendations would reduce user conflicts, while creating a meaningful priority for Federally qualified users.

Wildlife Proposal WP22-08

DESCRIPTION: WP22-08 requested that the Northeast Chichagof Controlled Use Area annual deer harvest limit for non-Federally qualified users be reduced to two male deer.

COUNCIL RECOMMENDATIONS:

Southeast Alaska Subsistence Regional Advisory Council – **Support**

BOARD ACTION: **Defer**

JUSTIFICATION: The Board discussed deferring all Unit 4 deer proposals on the non-consensus agenda to provide an opportunity for more collaboration between the Office of Subsistence Management, Forest Service, and affected user groups to come up with more specific proposals that address deer harvest issues in the area. The Board believed that fine-tuning a set of recommendations would reduce user conflicts, while creating a meaningful priority for Federally qualified users.

Wildlife Proposal WP22-10

DESCRIPTION: WP22-10 requested that the deer harvest limit for non-Federally qualified users in Lisianski Inlet and Lisianski Strait be reduced to 4 deer.

COUNCIL RECOMMENDATIONS:

Southeast Alaska Subsistence Regional Advisory Council – **Support with modification** to the area and harvest limit restrictions on non-Federally qualified users. Specifically, *“In drainages flowing into Lisianski Inlet, Lisianski Strait, and Stag Bay south of a line connecting Soapstone and Column points and north of a line connecting Point Theodore and Point Uray, non-Federally qualified users may harvest up to 3 bucks.”*

BOARD ACTION: **Defer**

JUSTIFICATION: The Board discussed deferring all Unit 4 deer proposals on the non-consensus agenda to provide an opportunity for more collaboration between the Office of Subsistence Management, Forest Service, and affected user groups to come up with more specific proposals that address deer harvest issues in the area. The Board believed that fine-tuning a set of recommendations would reduce user conflicts, while creating a meaningful priority for Federally qualified users.



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 22068.KW

Donald Hernandez, Chair
Southeast Alaska Subsistence
Regional Advisory Council
c/o Office of Subsistence Management
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503-6199

Dear Chairman Hernandez:

This letter responds to the Southeast 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. We value this opportunity to review the issues concerning your region.

1. Transboundary River Mining – Impacts to Subsistence Users

In 2017, by request of the Council, the Board sent a letter to the Alaska Lt. Governor regarding large scale mining development in the British Columbia, Canada, portions of Transboundary River watersheds. The Council hoped that the Lt. Governor would write a letter to the U.S. Department of State expressing his desire to work in conjunction with our Congressional Delegation to advance this issue at the Federal and international levels. So far, the Council has heard no more about this issue from those levels of government.

The Council wishes to again express its concerns for the health and protection of Transboundary River watersheds. The Mt. Polley Mine tailings dam failure was the biggest mining pollution disaster in Canada's history and has brought needed attention to the threats imposed by such mining activities.

The Council continues to hear distressing information from its constituents regarding

Transboundary River Mining and the impacts to the Southeast environment and the fish and wildlife resources that are harvested by our subsistence users:

- *The Tulsequah Mine has polluted the Taku River watershed since the late 1950s. Though money has been allocated to clean up this mine, no work has been done.*
- *The Red Chris Mine, operating upstream in the Stikine River watershed, has a tailings dam that is 341 feet high.*
- *The Unuk River is directly threatened by the Kerr-Sulphurets-Mitchell (KSM) project and is already being influenced by the Brucejack Mine.*
- *The Eskay Creek Mine is a revitalization project that is converting an underground mine into an open pit mine. A proposed tailings dam on this project expected to be around a hundred feet high.*

There are deep concerns that tailings dams upstream of Southeast Alaska watersheds will fail because they are built on glacial silt. The dams are supposed to hold back contaminants for hundreds of years. But statistics show there have been two failures about every 10 years. Despite these failures, more of these dams are being built. The large industrial scale mining projects that are either operating or proposed in British Columbia, Canada, are very close to the Alaska border and endanger the Taku and Stikine River watersheds.

At the Council's fall 2021 meeting, the Southeast Alaska Indigenous Transboundary Commission (SEIT Commission), a coalition of 15 Southeast Alaska Federally recognized Tribes, requested support from the Council on this issue. The Council supports the attached SEIT Commission resolution currently being considered by Tribes and municipalities in Southeast Alaska. This new resolution calls for a permanent ban on toxic mine waste dams, or tailings dams, and for a temporary pause to new mining activity in the mines along the Alaska/British Columbia Transboundary salmon rivers until the U.S./Canada Boundary Waters Treaty and the United Nations Declaration on the rights of indigenous peoples are upheld and an international agreement on watershed protection is in place.

The Council recognizes the importance of subsistence users having access to marine food resources that are not contaminated nor harmful for ingestion. Therefore, it supports Federal and State partnerships with Southeast Tribes to fund and increase science studies for indigenous management of natural resources; specifically, those projects that explore water quality and its impact on indigenous and subsistence food supplies, such as:

- *The two-year fish consumption rate survey project recently funded by Bureau of Indian Affairs, which is tied to water quality standards.*
- *The continuing work to study Eulachon and salmon species, engaging in environmental DNA analysis to assess populations and the collection of baseline water quality data.*

The Council requests that the Board forward these transboundary mining concerns to the U.S. Department of State with a request that the Transboundary Commission be instructed to immediately commence proactive engagements with Canada to defend and sustain our Transboundary Rivers. These shared Transboundary salmon rivers are critical for subsistence users, and this Council, through the Federal Subsistence Management Program (FSMP), strongly advocates that these resources be protected so that our coastal communities can continue their dependence on sustainable resources in Southeast Alaska.

Response:

The Board thanks the Council in its continuing effort to protect subsistence resources and uses within the Southeast Alaska Region, including within the Taku, Stikine, and Unuk transboundary river drainages. Per the Council's request, the Board sent a letter to the Honorable Lieutenant Governor of Alaska, Byron Mallott, on June 24, 2017, asking the Lieutenant Governor to seek assistance from the Federal government through the Department of State's office to pursue an International Joint Commission with Canada to proactively study, monitor, and mitigate potential environmental effects of water contamination in Alaska from upstream mining operations in British Columbia, Canada (enclosed). Unfortunately, the Board did not receive a response from the Lieutenant Governor.

The Board shares the Council's concerns regarding the health and protection of Transboundary River watersheds. The recent 2021 resolution from Salmon Beyond Borders calls "...for a permanent ban on tailings dams and for a temporary halt to the permitting, exploration, development, and expansion of Canadian mines along Alaska-British Columbia transboundary salmon rivers..." The Board requests that the Council resubmit their transboundary mining concerns in the form of a new letter to the Board, which in turn will be elevated to the U.S. Department of State with a request to take the lead in collaborating with Canada to openly address the transboundary mining issue and proactively resolve the concerns of the Council.

2. Information Sharing Policy Between the Alaska Department of Fish and Game and the Federal Subsistence Management Program

The Council has concerns about information sharing between the Alaska Department of Fish and Game (ADF&G) and the Federal Subsistence Management Program (FSMP). Draft ADF&G comments of Federal wildlife proposals WP22-07, -08, and -09 were circulated among the public prior to the Southeast Council's meeting. The Council members heard references to these ADF&G documents throughout the public comments on these proposals and felt they were at a disadvantage because they had not had time to review these drafted comments prior to the meeting. The Council would like to know more about the current information sharing policy between the State and the FSMP, if such policy is already in place, and would like to suggest that it be reemphasized or revised to improve how information is provided to the Council.

Response:

The 2008 Memorandum of Understanding (MOU) between the State of Alaska (State) and the Board that contained a section on information sharing between the two entities expired in 2014. That occurred after many unsuccessful attempts to modify the formal agreement. Consequently, at present there is no formal communications or data sharing policy or agreement between the State and the Federal Subsistence Management Program (FSMP), and no discussions are being held to revive the MOU. The State and the Office of Subsistence Management (OSM) have a verbal agreement that all data requests from both sides will go through the State's Liaison's team and the OSM Subsistence Liaison, and both sides continue to cooperate and share information to the best extent possible.

Since all Subsistence Regional Advisory Councils were formed under the Federal Advisory Committee Act, all information and meeting materials shared with the Councils during and prior to their meetings become part of the public domain and thus need to be available to all members of the public. Agencies and organizations, including the State of Alaska, are notified three months prior to the Council meeting regarding meeting materials submission deadlines and the acceptable document format. During the last two years, all Councils' meetings were held virtually. Therefore, OSM shared meeting materials on the FSMP website instead of distributing physical copies at the meetings. The early released draft of ADF&G comments on Federal wildlife proposals WP22-07, -08, and -09 were not in compliance with the electronic documents formatting standards outlined in the Section 508 of the Rehabilitation Act of 1973 and could not be posted on any Federal government website or shared as electronic documents with the Council. OSM notified the State about these technical Federal requirements to the documents prior to the Council meeting.

OSM will continue to ensure all documents submitted for posting on its website meet national standards and hopes to eliminate or substantially reduce rejecting documents that are not compliant with the Section 508 requirements. OSM informs the State of the deadlines for proposal comments and ADF&G almost always meets those deadlines when submitting meeting materials or reports. Suggestions for improvements to this informal inter-agency arrangement that do not diminish or supersede the authority or jurisdiction of the agencies involved are welcome.

3. Mechanism for including local knowledge into OSM's recommendations

The Council noted the lack of traditional ecological knowledge (TEK) during the explanations of ADF&G data on certain resources during their meetings. The Council believes that many data variables that impact the subsistence resources, which rural users have relied upon for generations, are missing when Federal analyses are developed. In the Council's opinion, many OSM recommendations on the recent wildlife proposals were not consistent with local Council member observations. The Council would like to request an explanation of TEK information sources currently utilized by OSM and how TEK is currently being incorporated into OSM analyses. The Council also would like to see a mechanism developed for ensuring local

knowledge is considered in OSM's recommendations. The lack of TEK in the analyses makes for unnecessary extended discussions at meetings because local users feel that OSM recommendations, based on limited data from the State, (which does not include TEK), really aren't "consistent with feet on the ground." This results in an analysis that does not provide adequate information upon which the Council feels it can make a sound recommendation.

Response:

The Board acknowledges the Council's frustration regarding full incorporation of Indigenous Ecological Knowledge (TEK) and strives to continue improving in this area. The Board obtains TEK from a variety of sources to inform management decisions. Anthropologists at OSM review transcripts from Regional Advisory Council meetings, Board meetings, public hearings, written public comments, and published literature to incorporate TEK into analyses. The Board also considers our government-to-government consultations with Tribes and Alaska Native Claims Settlement Act (ANCSA) Corporations imperative to our program.

One challenge faced by OSM in incorporating TEK is that our analysts do not conduct primary research. This is one of the many reasons why we rely on you, the Council, to provide us with knowledge and observations that OSM utilizes in forming its recommendations and the Board considers when deliberating proposals and special action requests. However, further progress can still be made in bringing TEK and western science together within analyses and decisions. The Anthropology Division at OSM is now fully staffed, which should contribute towards greater integration of TEK into more analyses. Further, when the Board relies on TEK in its decision-making, as it often does, it can explicitly acknowledge this use on the record.

4. Public Testimony and Public Comment Policies

The Council was informed that the process for public comments during the meeting had changed. The Council learned that comments, written or oral, would only be accepted during the meeting days, not a few days before as has been permitted in the past. The Council experienced redundant testimony at its last meeting and believes that this may have been because the public became confused with the change in the public comment submission process. Neither the public, nor the Council were adequately educated on the change to public testimony beforehand. Many of the emailed public comments received and recited at the meeting were similar, if not exactly the same as oral testimony heard during the meeting.

The Council would like clarification from OSM on the public comment protocol/procedure and requests that this information be shared with the public immediately. Providing this information may prevent duplicative comments during a meeting where controversial proposals prompt a significant amount of testimony.

Response:

The Board agrees with the Council that clear guidance is important when providing direction for public participation. The protocols for public comment used during the fall 2021 Council

meetings were temporary but necessary as the program worked to support our public process by teleconference. However, those temporary changes to our process allowed an opportunity to reexamine program guidelines. OSM initiated a guided discussion on receiving public comments during your winter 2022 Council meeting cycle. Your Council's feedback and the feedback provided by other Councils will help OSM develop a solid and consistent protocol, which we hope will be shared during the fall 2022 Council meeting cycle and before the next regulatory Board meeting in 2023. We recognize the importance of encouraging and facilitating public participation and testimony during the Council and Board meetings. Information shared by the public with Council and Board members during our meetings improves our public process and ensures we make informed decisions.

5. Regulatory Analyses and Presentation Content

The Council considered several wildlife proposals regarding regulatory changes to the management of Unit 4 deer. The Council feels in situations in which there are multiple proposals affecting the same/similar geographic area, it would be helpful to receive one oral or written report on cumulative effects of those proposals. This information would allow the Council to consider the effects holistically for an entire management area. The Council formally requests that the Board instruct staff to provide cumulative effects information at future regulatory meetings where multiple proposals affect the management of a species within a single game or fish management unit.

Response:

The Board thanks the Council for suggestions on how to improve presentation of regulatory proposal analyses at Council meetings. OSM has noted this request and, in the future, will strive to present to the Council information spanning multiple proposals affecting the same species and areas more holistically.

6. Mariculture Permitting – Effects on Subsistence Sensitive Areas

The Council did not have the opportunity to hear the information on kelp farming that was scheduled on its agenda due to time constraints; however, the Council remains very interested in this topic and hopes they will receive information from ADF&G at its winter meeting. The Council is concerned that mariculture activities will restrict or limit access to subsistence resources. The Council would like to request that Federal staff be prepared to comment in the future regarding the impacts that kelp farming and other mariculture permitting has had on subsistence resources and access to subsistence sensitive areas. The Council is concerned that proper consideration isn't given to the effects of mariculture on accessibility to subsistence resources before permits are granted. Ideally, the Council would like to see an impact statement before the State creates any commercialized industry that may have a negative effect on subsistence users and that before a new fishery is created, the State would recognize the traditional uses of the area.

The Council would appreciate the assistance of Federal staff regarding any questions about these project impacts on subsistence resources and impacts to access for areas in or adjacent to the mariculture areas. This Council may wish to send a letter to ADF&G on this issue and would require as much information as possible to formulate an effective letter of concern regarding detrimental effects of State permitted activities affecting access to Federal subsistence resources.

Response:

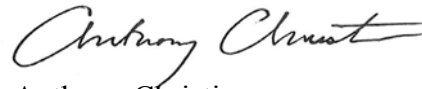
The Board fully supports the Council's interest to learn more about the effects of kelp farming and other permitted kinds of mariculture on subsistence resources and subsistence uses in Southeast Alaska. The ADF&G Statewide Aquaculture Section Chief Garold 'Flip' Pryor gave a presentation to the Council during their March 22-24, 2022, Council meeting. The presentation provided a good overview of the permitting process, including the major State, Federal, and local authorities involved, summarized the criteria and determination processes for issuing permits, and provided an update on the number of aquatic farm and aquatic hatchery permits currently in use and under review. We encourage the Council to continue to pursue researching this relatively new industry in Alaska and its potential effects on subsistence resources and subsistence uses.

The Board suggests you follow up with Mr. Pryor of ADF&G (garold.pryor@alaska.gov/907-465-4235) or Michelle Morris, also with ADF&G, (michelle.morris2@alaska.gov/907-465-4724) to learn more about how the State collects and evaluates baseline environmental information used during the permitting process and, more specifically, ask to review existing project environmental evaluations based on the criteria used to issue permits. This may help to determine if the State environmental review process adequately evaluates potential effects on subsistence resources and subsistence uses.

Additionally, the Board appreciates the Council sharing the information on the other issues significant to the Council, such as the Council's Indigenous Co-Management workgroup information gathering on the indigenous co-management of resources in Southeast Alaska and the Council's continued support for the 2001 Roadless Rule. The Board is also thankful to the Council for providing regional information on the fish and wildlife populations and the harvests in the Southeast Alaska Region.

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

Sincerely,



Anthony Christianson
Chair

Enclosures

cc: Southeast Alaska Subsistence Regional Advisory Council
Federal Subsistence Board
Office of Subsistence Management
DeAnna Perry, Council Coordinator, U.S. Forrest Service
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

Congress of the United States
Washington, DC 20515

September 8, 2016

The Honorable John Kerry
Secretary
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Kerry:

Thank you for your staff's June 14th response regarding the development of several hardrock mines in British Columbia and their potential effects on water quality in the transboundary rivers that flow from Canada into Southeast Alaska. We are pleased to hear that you continue to discuss potential impacts of mining in British Columbia. It would be helpful if you could convey the results of these discussions, as well as address what actions have been taken on the specific items raised in our letter addressed to you this May.

For quite some time, we have urged you and your Department to work with us to focus appropriately on the risks that mining in British Columbia poses to Alaska and Alaskans. When you visited Alaska last year, we were encouraged by your comment that "downstream impacts should not be taken lightly by any country, anywhere." But we remain troubled that nearly a year later, we have seen little action from State on such an important issue to so many.

Treating transboundary mining issues with urgency and focus today would prevent discord and disaster tomorrow. We need the federal government to partner with Alaska to press Canada on policy answers.

Alaska is a resource state and we believe, as Canadians do, in smart, thoughtful extraction of energy and minerals. Mining is central to our economy, provides well-paying jobs, helps generate revenues for our treasuries, and serves as the foundation of our manufacturing sector. But we are very concerned about the absence of leadership at the Department of State to constructively and candidly address the transboundary issue and work collaboratively with Canada to find the best mechanism to proactively resolve concerns.

The stakes for Alaska are enormous. Alaska's salmon rivers provide for commercial and recreation fishing and tourism which are vital to the economy of southeast Alaska. The continued health of these rivers also sustains the regions unique way of life. This region of Canada is now one of the world's largest mining districts, and many Canadian mineral projects are located in transboundary watersheds of key salmon rivers—the Taku, Stikine and Unuk—that originate in British Columbia and flow into Southeast Alaska. These mines pose huge economic risk to Alaska in the form of acid mine drainage and toxic heavy metals that threaten Alaska Native communities and traditional and customary lifestyles as well as the regional \$2 billion-dollar-a-year fishing and tourism industries. As

Secretary Kerry
September 8, 2016

we all remember, almost two years ago, the Mount Polley mine in central British Columbia dumped just over six billion gallons of contaminated tailings into waters leading to the salmon-rich Fraser River.

To this point, we believe there has been a failure by your Department to support potential solutions embraced by Alaskans. Alaska has been left alone to pursue steps including a Statement of Cooperation with British Columbia, even though we know that by definition that is only one step in a process which must include federal leadership. We are continuing our fight to elevate this issue and to find funding for baseline water quality monitoring. We ask that you please reconsider our requests from our May letter:

- 1) Encourage British Columbia officials to consider the cumulative impacts of mining and their potential impacts on transboundary waters during the review and approval process for mines.
- 2) Determine whether an International Joint Commission reference is a suitable venue to determine whether Canadian mines are following “best practices” in treatment of wastewaters and acid-producing mine tailings – especially in light of the scientific reviews of the causes of the Mt. Polley tailing disposal dam failure.
- 3) Establish a more formal consultation process with American state agencies, other federal agencies, tribes, and Alaska Native Claims Settlement Act corporations during Canadian mine permit reviews, similar to the American process of having participating entities during Environmental Impact Statement preparations.
- 4) Support Environment Canada’s water quality study effort relating to the impacts of mining on transboundary waters.
- 5) Support and work towards robust funding for water quality testing on the American side of the border to establish baseline water quality data, so that the U.S. can file for damages in the event of mining-related damage from Canadian mines.

Alaska is at a point now where we urge you to consider appointing a Special Representative for U.S.-Canada Transboundary Issues, creating an Interagency Working Group to address these issues, and work with us to form U.S.-Canada exchanges of legislators and parliamentarians to discuss these issues on both sides of the border. Most importantly, we ask that you will respond to these specific proposals on the merits – and propose some answers of your own.

We formally request a meeting with you as soon as possible to discuss these issues. Thank you for your consideration of our requests. Please contact our offices if you need additional information.

Sincerely,



Lisa Murkowski
United States Senator



Dan Sullivan
United States Senator



Don Young
Congressman for All Alaska



***Southeast Alaska
Subsistence Regional
Advisory Council***

**Michael Bangs, Chairman
P.O. Box 1733
Petersburg, Alaska 99833**

RAC SE17001.DP

JAN 24 2017

Mr. Anthony Christianson, Chair
Federal Subsistence Board
c/o Office of Subsistence Management
1011 East Tudor Road, MS 121
Anchorage, AK 99503

Re: Transboundary River Watersheds

Dear Chairman Christianson:

The Southeast Alaska Subsistence Regional Advisory Council would like to express its concern for the health and protection of Transboundary River watersheds. The Council would like to request the Federal Subsistence Board write a letter to Lt. Governor Byron Mallott in an effort to relay this concern.

The Council is pleased by the recent communications between the Lt. Governor and our neighbors in British Columbia related to the large scale mining development underway and proposed mining in the British Columbia portions of the Transboundary River watersheds. It is the Council's understanding that the Lt. Governor is disappointed with the U.S. Department of State's lack of engagement on this issue. The Council would like to encourage the Lt. Governor to maintain momentum in protecting these international watersheds and fishery resources for subsistence use by writing a letter to the U.S. Department of State, expressing his desire to work in conjunction with our Congressional Delegation to advance this issue at the federal and international levels.

Chairman Christianson

2

For your convenience, the Council has prepared a draft letter for submission from the Board to the Lt. Governor (enclosed). The Council hopes that the Board will forward this letter on an issue that is of vital importance to the subsistence needs of the people of Southeast Alaska. Thank you for consideration of our request. Any questions regarding this letter can be addressed directly to me or through our Subsistence Council Coordinator, DeAnna Perry, at 907-586-7918, dlperry@fs.fed.us.

Sincerely,



Mike Bangs
Chair

Enclosures

cc: Federal Subsistence Board
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management
Stewart Cogswell, Acting Deputy Assistant Regional Director
Office of Subsistence Management
Jennifer Hardin, Acting Fisheries Division Chief, Office of Subsistence Management
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management
Tom Whitford, Regional Subsistence Program Leader, U.S. Forest Service
Jill Klein, Special Assistant to the Commissioner, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record



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

Federal Subsistence Board

1011 East Tudor Road, MS 121
Anchorage, Alaska 99503



FOREST SERVICE

JAN 24 2017

The Honorable Lieutenant Governor Byron Mallott
P.O. Box 110001
Juneau, Alaska 99811

Dear Lt. Governor Mallott:

The Federal Subsistence Board (Board) has received a letter from the Southeast Alaska Subsistence Regional Advisory Council (Council), expressing concerns regarding the Transboundary River watersheds. With this letter, I am forwarding those concerns to you.

The Council is encouraged by your continuing commitment and dedication to improving communication and cooperation with our neighbors in British Columbia. These communications will help to ensure that the waters and fisheries of the transboundary rivers and all of southeast Alaska remain healthy and are protected from contamination and other adverse impacts related to the large scale mining development underway and proposed in the British Columbia portions of the Transboundary River watersheds.

The Council is also encouraged by your publicly stated acknowledgement that Federal government engagement in the Transboundary River mining issue is necessary to ensure protection of these international watersheds that are of vital importance to the subsistence needs of the people of Southeast Alaska. The Council understands that you are disappointed with the U.S. Department of State's lack of engagement in this issue and that you will be working in conjunction with our Congressional Delegation in an attempt to advance this issue at the federal and international levels. In this regard, the Council respectfully requests that your administration send a letter to the U.S. Secretary of State explicitly requesting federal engagement in this issue, including, but not limited to, an International Joint Commission referral. A letter from your office, in conjunction with the September 8, 2016 letter sent by the Alaska Congressional Delegation requesting federal engagement (enclosed), would be a powerful statement on the importance of maintaining the high water quality vital to producing healthy fisheries resources.

There are several large scale mining operations that exist or are planned for the Transboundary River watershed. The potential negative effects on water quality and fishery production in the waters of Southeast Alaska are of deep concern to residents of the Southeast Region.

The Honorable Lieutenant Governor Byron Mallott

2

We thank you for your consideration of the Council's request on this issue and look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Christianson". The signature is fluid and cursive, with the first name "Anthony" written in a larger, more prominent script than the last name "Christianson".

Anthony Christianson
Chair

Enclosures

cc: Federal Subsistence Board
Southeast Alaska Subsistence Regional Advisory Council
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management
DeAnna Perry, Subsistence Council Coordinator, U.S. Forest Service
Tom Whitford, Regional Subsistence Program Leader, U.S. Forest Service
Jill Klein, Special Assistant to the Commissioner, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record

Summary of Federal Subsistence Special Actions

Southeastern Alaska and Yakutat Areas

2022

Special Action Number	Area & Species Affected	Summary of Action	Authorized By
FSA 13-EU-01-22	District 1 Eulachon	Closed the District 1 Eulachon fishery from March 1 through April 29, 2022 except the Unuk River drainage.	USFS Ketchikan District Ranger via authority delegated by the Federal Subsistence Board
FSA 13-KS-02-22	District 8 Chinook Salmon	Closed the Stikine River Chinook Salmon fishery from May 15 through June 20, 2022.	USFS Wrangell District Ranger via authority delegated by the Federal Subsistence Board
FSA 12-KS-03-22	Yakutat Area Chinook Salmon	Closed the Situk River Chinook Salmon fishery June 1, 2022.	USFS Yakutat District Ranger via authority delegated by the Federal Subsistence Board
FSA 12-KS-04-22	Yakutat Area Chinook Salmon	Reopened the Situk River Chinook Salmon fishery July 26, 2022.	USFS Yakutat District Ranger via authority delegated by the Federal Subsistence Board
WSA 13-MG-01-22	Unit 5A, Yakutat Area Mountain Goat	Closed that portion of Unit 5A beginning on the west shore of Harlequin Lake and the western edge of Yakutat Glacier; then west of Harlequin Lake and Yakutat Glacier to Yakutat Bay and Disenchantment Bay; and south of Russell and Nunatak Fjords to mountain goat harvest from August 1 through Jan. 31, 2022.	USFS Yakutat District Ranger via authority delegated by the Federal Subsistence Board
WSA 13-MG-02-22	Unit 4, Baranof Island Mountain Goat	Closed the South Baranof Zone to mountain goat harvest from August 1 through December 31, 2022.	USFS Sitka District Ranger via authority delegated by the Federal Subsistence Board
WSA 13-MG-03-22	Unit 4, Baranof Island Mountain Goat	Closed the Lisa Creek Zone to mountain goat harvest from August 19 through December 31, 2022.	USFS Sitka District Ranger via authority delegated by the Federal Subsistence Board
WSA 13-MG-04-22	Unit 4, Baranof Island Mountain Goat	Closed the Rosenberg Lake Zone to mountain goat harvest from September 10 through December 31, 2022.	USFS Sitka District Ranger via authority delegated by the Federal Subsistence Board
WSA 13-MG-05-22	Unit 4, Baranof Island Mountain Goat	Closed the Bear Mountain Zone to mountain goat harvest from September 11 through December 31, 2022.	USFS Sitka District Ranger via authority delegated by the Federal Subsistence Board



***Southeast Alaska
Subsistence Regional
Advisory Council***

**Don Hernandez, Chairman
1011 E. Tudor Road, MS121
Anchorage, Alaska 99503**

RAC xxx.DP

Office of Subsistence Management
1011 E. Tudor Road, M/S 121
Anchorage, AK 99503-6199

USDA - USFS Regional Office
ATTN: Regional Forester, Dave Schmid
P.O. Box 21628
Juneau, AK 99801-1807

USDA – USFS Tongass National Forest
ATTN: Forest Supervisor, Earl Stewart
648 Mission Street
Ketchikan, AK 99901

National Park Service - Alaska Region
ATTN: Regional Director, Sarah Creachbaum
240 W 5th Ave
Anchorage, AK 99501

National Park Service – Glacier Bay
ATTN: Superintendent, Phillip Hooge
Glacier Bay National Park & Preserve
PO Box 140
Gustavus , AK 99826

RE: SOUTHEAST ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL'S POSITION STATEMENT FOR INDIGENOUS MANAGEMENT OF NATURAL RESOURCES

To Interested Parties:

The Southeast Alaska Subsistence Regional Advisory Council (Council) supports responsible management of natural resources throughout southeast Alaska; specifically, those that are utilized by indigenous and rural residents for their subsistence needs.

This Council is one of ten regional advisory councils formed under Title VIII of the Alaska National Interests Lands Conservation Act (ANILCA) and chartered under the Federal Advisory Committee Act. Section 805 of ANILCA and the Council's charter establish its authority to initiate, review and evaluate regulations, policies, management plans, and other matters related to subsistence within the southeast Alaska region.

The Council routinely reviews resource management actions that may impact subsistence resources critical to the Federally qualified subsistence users it represents. Over the last several years, the Council has learned of meaningful opportunities for indigenous organizations and partnerships to actively participate in resource management. The Council would like to formally enumerate its support for local and regional indigenous/cooperative resource management in Southeast and looks forward to supporting co-management opportunities that are present under existing regulations.

1. Why co-management?

The Council has found, through testimony and deliberations at its meetings, that co-management strengthens sustainable management of wild renewable resources, engages communities in stewardship of those resources, and results in overall improvement and acceptance of needed local strategies to maintain those wild renewable resources. This is because localizing natural resource monitoring leans on the knowledge of that place, puts money into the local community through local hire, and increases trust between managing entities and local user groups. Some local entities and federal agencies are already moving toward co-management to address local concerns and needs. Offer a definition of "co-management"?

Since the inception of federal management of fish and wildlife on federal public lands, federally recognized tribes in southeast Alaska have been important participants in the Federal Subsistence Management Program. In southeast Alaska, tribes regularly comment on regulatory proposals that come before the Council, and they provide information on the state of subsistence in their traditional territories. Tribes actively cooperated in Tribal Government-to-Government or ANCSA Consultation opportunities and dedicated tribal liaison Orville Lind, and with the Council in addressing proposed changes to the Roadless Rule which has served Tongass communities very well. Tribes have been active participants in Forest Service and National Park Service land use planning and actions. They have also addressed herring depletion and other issues important to their members.

The Council has had a very positive relationship with tribes and has supported cooperative fisheries harvest and escapement data gathering/analysis projects with tribes. In recent years, tribes are moving effectively to reestablish indigenous management of the traditional territories that have been theirs under traditional law. Tribes and tribal citizens are organizing through the Indigenous Guardians Network project, the Sustainable Southeast Partnership, the Women's Earth and Climate Action Network, and other groups to prepare for a more active land and resource management responsibility.

In its role of providing a forum to gather and discuss matters related to subsistence, the Council has heard from these groups. At this time, our responsibility under our Federal Advisory Committee Act charter is to report what we have learned about this movement toward co-management to Office of Subsistence Management (OSM), USDA-Forest Service (USFS), and the National Park Service (NPS), and to suggest near-term program changes that may enhance subsistence protections. The Council also embraces our responsibility to develop a policy direction on how co-management might take place in our region by including more involvement by local tribes.

2. Council has authority to support co- management and to recommend management changes to OSM, FS, and NPS

Under ANILCA Sections 801(1) and 805(a)(3), the Council has the authority to provide recommendations on management of fish and wildlife resources within the region and this extends to co-management of these resources. The Council has regularly provided its recommendations on fish and wildlife management proposals, rural determinations, Forest Service management plans, program customary and traditional use determinations, extra-territorial jurisdiction, cultural/special use permits and regulations governing ceremonial use (Khu.éex') of fish and wildlife resources, and other matters.

Further, ANILCA 805 grants broad authority to evaluate proposals, policies, plans, provide for public participation and to report our activities to the secretaries of Interior and Agriculture. We respect the limitations to our authority dealing with the taking of fish and wildlife under Section 805 (a)(3)(C); however, in order to fulfill the RAC's authority, as assigned in Section 805(3)(C) and (D), the Council looks forward to supporting co-management opportunities that exist under existing regulations.

3. History of the Federal Subsistence Management Program (FSMP) and request to examine greater incorporation of tribes in management activities

Federal management of subsistence fish and wildlife resources on Federal public land has been in place since 1990 when the State of Alaska failed to comply with ANILCA provisions to provide a rural preference for subsistence. Few of us at the time thought that the Federal Subsistence Program would become a virtually permanent Federal responsibility. At this 32-year mark, the Council continues to support the examination of management structures that have been implemented and to recommend incremental changes in Federal management of subsistence harvest and land management activities. The Council has extensive experience in

participating in field data gathering, land management issues in southeast Alaska, and working productively with our region's 20 Federally recognized tribal communities, as well as with the Central Council of Tlingit and Haida Tribes of Alaska (CCTHITA).

Over this 32-year time period, the Council has supported 14 fisheries monitoring projects undertaken with Hydaburg Cooperative Association, Chilkoot Indian Association, Hoonah Indian Association, Klawock Heenya Corporation, Organized Village of Kake, Ketchikan Indian Association, Sitka Tribe of Alaska, Angoon Community Association, Alaska Department of Fish and Game, Takshanuk Watershed Council, and Skagway Traditional Council. These fisheries projects take place in the following areas in southeast Alaska: Neva Lake, Kanalku Lake, Klag Lake, Kook Lake, Sitkoh Lake, Redoubt Lake, Falls Lake, Klawock Lake, Eek Lake, Hetta Lake, Hatchery Creek, Gut Bay, Unuk River, Northern Southeast (Eulachon project).

FSMP has supported subsistence harvest surveys in most of our region's communities. The Council led a multi-year planning effort concerning Prince of Wales. The cooperative monitoring and subsistence use projects undertaken with southeast Alaska indigenous communities have been particularly successful. These co-management projects have been cost effective and have resulted in tribal capacity building and the Council would like to request that land management agencies examine their programs to identify additional opportunities for greater incorporation of tribes in management activities.

4. Land Ownership under Traditional Law

The Council considers that all southeast Alaska, including all Federal land in the Tongass National Forest, Glacier Bay National Park, the Admiralty Island and Misty Fjords national monuments, and other Federal land designations to be Haa Aaní (our land), traditional and tribal clan territories, also known as Federal public lands under ANILCA.

The Council notes that traditional Native land ownership is well documented in kwaan and clan traditional law and in documentation studies done by Goldschmidt and Haas in 1946. Traditional ownership boundaries have been reaffirmed in tribal community studies undertaken with many of our region's tribes since the passage of ANILCA. This is to say that clan and kwaan boundaries are generally known and established. Under traditional law, access to owned land and harvest of natural resources was controlled by the owning clan as with other At'oowu (something owned or purchased). Co-management acknowledges this Tribal stewardship and knowledge of the land since time immemorial.

5. Tribal land issues in our region need to be addressed

The Council believes that the Federal government's approach to managing the land, water, and fish and wildlife resources of our region should address and engage tribal co-management in protecting the continued viability of fish and wildlife resources on their traditional territories and the public lands of southeast Alaska. The Council's long term goal is to enhance hands-on land and resource management activities in our region by including input from the tribal entities that traditionally owned Haa Aaní. This change would be similar to changes that have taken place where tribes actively manage land and resources with limited technical oversight by the Bureau

of Indian Affairs. It is also similar to the Federal government's trust obligations to tribal entities which now effectively manage health, housing, and other trust obligations and to the empowerment of tribal courts.

6. Existing indigenous/cooperative management activities

Over the past year and a half, the Council has heard from the Indigenous Guardians Network, the Southeast Alaska Sustainability Strategy Partnership, the Women's Earth and Climate Action Network, and other groups. Very broadly, these groups support co-management of our region's natural resources and insuring subsistence food security. We support these ongoing efforts and encourage future food sovereignty concepts.

7. Request for active engagement by OSM, USFS, and NPS with southeast Alaska tribes concerning subsistence management

In the short and near term, the Council requests OSM, USFS, and NPS, as our region's lead Federal agencies, to actively engage our region's tribes in co-management agreements concerning **subsistence research and planning** as well as **active subsistence management**. We call on OSM to enter into co-management agreements with our region's tribes to 1) monitor the status of fish and wildlife populations and their harvests used for subsistence, 2) analyze regulatory proposals that may be submitted to OSM and the Council, 3) issue licenses and permits that may be required, 4) engage their constituents on management issues. OSM and USFS should also enter into co-management agreements to address the looming threat poised to the continuation of the opportunity for subsistence uses to address climate change and environmental justice and looming threats from resultant pressure on subsistence resources identified in ANILCA 801(3) as 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 decline 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."

8. Request for active engagement by USFS, and NPS with southeast Alaska tribes concerning cooperative and co-management for land management

In the short and near term, the Council calls on USFS and NPS to also enter cooperative co-management agreements with our region's tribes on all matters concerning **land management of traditional lands**. The goal of these agreements should be driven by the community and would include space for co-decision making and extensive local resource monitoring. These could include delegating authority to prepare review materials for Federal plans and land use actions, to perform data gathering on forest resources, to assess and implement restoration activities, and to enable tribes to become effective guardians of public land resources. These agreements will require a long-view on meeting the gaps of communities, Tribes, and federal entities. Both agencies should recruit qualified tribal residents to their internship programs to grow a new generation of natural resource managers.

In conclusion, the Council is appreciative of the 32-year old program of Federal management of subsistence resources in southeast Alaska and believes that incorporating our region's tribes in active land and resource management provides meaningful opportunities for Alaska Natives residing within the region to contribute in a meaningful way to the protection of subsistence resources on Federal Public lands AND will result in greatly improved management in our region.

The Council knows it will take some time to implement co-management agreements. The Council would like to hear what progress has been made toward co-management efforts by the agencies at its winter 2023 meeting and to receive regular status updates at each future meeting.

If you have any questions regarding this letter, they can be addressed through our Council Coordinator, DeAnna Perry, at 907-209-7817, dlperry@usda.gov.

Sincerely,

Donald Hernandez
Chair

cc: Federal Subsistence Board
Southeast Alaska Subsistence Regional Advisory Council Members
DeAnna Perry, Subsistence Council Coordinator, Office of Subsistence Management
Office of Subsistence Management
Greg Risdahl, Subsistence Program Leader Alaska Region 10, USDA – Forest Service
Benjamin Mulligan, Deputy Commissioner, Alaska Department of Fish and Game
Mark Burch, Special Projects Coordinator, Alaska Department of Fish and Game
Alaska Subsistence Regional Advisory Councils: (Southcentral, Kodiak/Aleutians, Bristol Bay, Yukon-Kuskokwim Delta, Western Interior, Seward Peninsula, Northwest Arctic, Eastern Interior, and North Slope
Interagency Staff Committee
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

FP23–20 Executive Summary																					
General Description	Proposal FP23-20 requests the Federal Subsistence Board to recognize the customary and traditional uses of shellfish in Southeast Alaska by rural residents of Southeast Alaska. <i>Submitted by: Southeast Alaska Subsistence Regional Advisory Council.</i>																				
Proposed Regulation	<p><i>Customary and traditional use determinations—Shellfish</i></p> <p><i>Southeastern Alaska-Yakutat Area</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"><i>All districts</i></td> <td style="width: 33%;"><i>All shellfish</i></td> <td style="width: 33%;"><i>Residents of Southeastern Alaska and Yakutat Fishery Management Areas</i></td> </tr> <tr> <td><i>Section 1E south of the latitude of Grant Island light</i></td> <td><i>Shellfish, except shrimp, king crab, and Tanner crab</i></td> <td><i>Residents of the Southeast Area</i></td> </tr> <tr> <td><i>Section 1F north of the latitude of the northernmost tip of Mary Island, except waters of Boca de Quadra</i></td> <td><i>Shellfish, except shrimp, king crab, and Tanner crab</i></td> <td><i>Residents of the Southeast Area</i></td> </tr> <tr> <td><i>Section 3A and 3B</i></td> <td><i>Shellfish, except shrimp, king crab, and Tanner crab</i></td> <td><i>Residents of the Southeast Area</i></td> </tr> <tr> <td><i>District 13</i></td> <td><i>Dungeness crab, shrimp, abalone,</i></td> <td></td> </tr> <tr> <td><i>Remainder Area</i></td> <td><i>All shellfish</i></td> <td><i>All rural residents</i></td> </tr> </table>			<i>All districts</i>	<i>All shellfish</i>	<i>Residents of Southeastern Alaska and Yakutat Fishery Management Areas</i>	<i>Section 1E south of the latitude of Grant Island light</i>	<i>Shellfish, except shrimp, king crab, and Tanner crab</i>	<i>Residents of the Southeast Area</i>	<i>Section 1F north of the latitude of the northernmost tip of Mary Island, except waters of Boca de Quadra</i>	<i>Shellfish, except shrimp, king crab, and Tanner crab</i>	<i>Residents of the Southeast Area</i>	<i>Section 3A and 3B</i>	<i>Shellfish, except shrimp, king crab, and Tanner crab</i>	<i>Residents of the Southeast Area</i>	<i>District 13</i>	<i>Dungeness crab, shrimp, abalone,</i>		<i>Remainder Area</i>	<i>All shellfish</i>	<i>All rural residents</i>
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OSM Preliminary Conclusion	Support																				
Southeast Alaska Subsistence Regional Advisory Council Recommendation																					

FP23–20 Executive Summary	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	1 oppose

DRAFT STAFF ANALYSIS

FP23-20

ISSUES

Proposal FP23-20, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council), requests the Federal Subsistence Board (Board) to recognize the customary and traditional uses of shellfish in Southeast Alaska by rural residents of Southeast Alaska.

DISCUSSION

The proponent states that 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 (Salazar 2010). During the Southeast Alaska Council's review in 2016, it requested, among other things, that the Board adopt customary and traditional use determinations broadly (Bangs 2016). The Council requested the Board in the future to recognize customary and traditional uses of all fish and wildlife in Southeast Alaska that have been taken for food or other purposes, including handicrafts, ceremonies, and customary trade. The Council said its recommendations to the Board in the future would tend to include residents of all rural Southeast communities and areas, and the three criteria in Section 804 of the Alaska National Interest Lands Conservation Act (ANILCA) was the regulatory process the Board should use to allocate resources, when necessary, and not customary and traditional use determinations. The Council intended to submit regulatory proposals to the Board requesting to broaden the complex web of customary and traditional use determinations that currently existed in Southeast Alaska (Bangs 2016). The Board responded that the Southeast Alaska Council's recommendation regarding customary and traditional use determinations aligned well with the current process followed statewide in the Federal Subsistence Management Program (Towarak 2016:5). Since then, the Council has requested, and the Board has adopted, customary and traditional use determinations for fish, deer, moose, brown bear, and black bear that include all rural residents of Southeast Alaska. This has greatly simplified these determinations that were originally adopted from State regulations at the formation of the Federal Subsistence Management Program in 1992.

Existing Federal Regulation

Customary and traditional use determinations—Shellfish

Southeastern Alaska-Yakutat Area

<i>Section 1E south of the latitude of Grant Island light</i>	<i>Shellfish, except shrimp, king crab, and Tanner crab</i>	<i>Residents of the Southeast Area</i>
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<i>Section 1F north of the latitude of the northernmost tip of Mary Island, except waters of Boca de Quadra</i>	<i>Shellfish, except shrimp, king crab, and Tanner crab</i>	<i>Residents of the Southeast Area</i>
<i>Section 3A and 3B</i>	<i>Shellfish, except shrimp, king crab, and Tanner crab</i>	<i>Residents of the Southeast Area</i>
<i>District 13</i>	<i>Dungeness crab, shrimp, abalone, sea cucumbers, gum boots, cockles, and clams, except geoducks</i>	<i>Residents of the Southeast Area</i>
<i>Remainder area</i>	<i>All shellfish</i>	<i>All rural residents</i>

Proposed Federal Regulation

Customary and traditional use determinations—Shellfish

Southeastern Alaska-Yakutat Area

<i>All districts</i>	<i>All shellfish</i>	<i>Residents of Southeastern Alaska and Yakutat Fishery Management Areas</i>
<i>Section 1E south of the latitude of Grant Island light</i>	<i>Shellfish, except shrimp, king crab, and Tanner crab</i>	<i>Residents of the Southeast Area</i>
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Remainder area

All shellfish

All rural residents

Relevant Federal Regulations

36 FR 242.24 Customary and traditional use determinations

(a) . . . When there is a determination for specific communities or areas of residence in a Unit, all other communities not listed for that species in that Unit have no Federal subsistence priority for that species in that Unit. If no determination has been made for a species in a Unit, all rural Alaska residents are eligible to harvest fish or wildlife under this part.

36 CFR 242.4 Definitions

The following definitions apply to all regulations contained in this part:

. . .

Inland Waters means, for the purposes of this part, those waters located landward of the mean hightide line or the waters located upstream of the straight line drawn from headland to headland across the mouths of rivers or other waters as they flow into the sea. Inland waters include, but are not limited to, lakes, reservoirs, ponds, streams, and rivers.

. . .

Marine Waters means, for the purposes of this part, those waters located seaward of the mean hightide line or the waters located seaward of the straight line drawn from headland to headland across the mouths of rivers or other waters as they flow into the sea.

36 CFR 242.25 Subsistence taking of fish, wildlife, and shellfish: general regulations

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

. . .

Fresh water of streams and rivers means the line at which fresh water is separated from saltwater at the mouth of streams and rivers by a line drawn headland to headland across the mouth as the waters flow into the sea.

***Note:** The Board's authority to manage shellfish exists only in Federal marine waters described in regulation (see **Extent of Federal Public Waters**, below).

Extent of Federal Public Waters

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

For the Yakutat Area, these regulations apply on inland fresh water, both navigable and non-navigable, within and adjacent to the exterior boundaries of Wrangell-St. Elias National Park and Preserve, Glacier Bay National Preserve, and Tongass National Forest and exclude marine waters (see **Yakutat Area Map**).

In order to engage in subsistence in Wrangell-St. Elias National Park, the National Park Service requires that subsistence users either live within the park resident zone (36 CFR 13.430, 36 CFR 13.1902) or have a subsistence permit (36 CFR 13.440) issued by the Park Superintendent. Yakutat is the only Southeast Alaska community within the Wrangell-St. Elias National Park resident zone.

For the Southeastern Alaska Area, these regulations apply on inland fresh water, both navigable and non-navigable, within and adjacent to the exterior boundaries of Tongass National Forest, Admiralty Island National Monument, Misty Fjords National Monument, Maritime National Wildlife Refuge (inland fresh waters of Forrester Island, Hazy Island, and Saint Lazaria Island) and exclude marine waters except in the following areas: Makhnati Island (**Figure 1**), Beacon Point on Kupreanof Island in Frederick Sound, Bushy Island in Snow Passage, Cape Strait on Kupreanof Island in Frederick Sound, Point Colpoys in Sumner Strait, Vank Island in Stikine Strait, High Point on Woronkofski Island, Key Reef in Clarence Strait, Low Point on Zarembo Island, McNamara Point on Zarembo Island, Mountain Point in Wrangell Narrows, Angle Point on Bold Island in Revillagigedo Channel, Cape Chacon on Prince of Wales Island in Dixon Entrance, Lewis Reef in Tongass Narrows, Lyman Point in Clarence Strait, Narrow Point on Prince of Wales Island in Clarence Strait, Niblack Point on Cleveland Peninsula in Clarence Strait, Rosa Reef in Tongass Narrows, Ship Island in Clarence Strait, Spire Island Reef in Revillagigedo Channel, Surprise Point in Nakat Inlet, Caamano Point on Cleveland Peninsula in Clarence Strait, Meyers Chuck in Clarence Strait, Round Island in Cordova Bay, Mary Island, and Tree Point (36 CFR §242.3(b)(5)(i) and 50 CFR §100.3(b)(5)(i)) (see **Appendix 1** and **Southeastern Alaska Area Maps**)

Glacier Bay National Park is closed to subsistence taking of fish and wildlife.

Regulatory History

In 1992, the Federal Subsistence Management Program first issued hunting, trapping, and fishing regulations. No customary and traditional use determinations for shellfish in the Southeast Alaska Region were adopted, and no marine waters were identified under the Federal Program's jurisdiction in Southeast Alaska (57 Fed. Reg. 104, 22940–22964 [May 29, 1992]).

In 1999, the Board adopted the current customary and traditional use determination for shellfish in Southeast Alaska as it revised determinations for fish and shellfish statewide to incorporate past Alaska Board of Fisheries customary and traditional use determinations that were in compliance with Title VIII of ANILCA (January 1990) and the determinations that the Board of Fisheries had made since 1990 where they applied on Federal public waters and were consistent with Title VIII of ANILCA (64 Fed. Reg. 64; 1279–1284 [January 8, 1999]).

In 2006, the Board added marine waters in the Makhnati Island area to Federal subsistence management jurisdiction (**Figure 1**, 71 Fed. Reg. 164, 49997–49999 [August 24, 2006]). In 2018, the Board further

added multiple small areas of marine waters, listed above in Extent of Federal Public Waters and in **Appendix 1** (83 Fed. Reg. 100, 23813–23819 [May 23, 2018]). More small areas of marine waters in Southeast Alaska are pending to be included in Federal subsistence management jurisdiction (87 Fed. Reg. 92, 29061–29078 [May 12, 2022]).

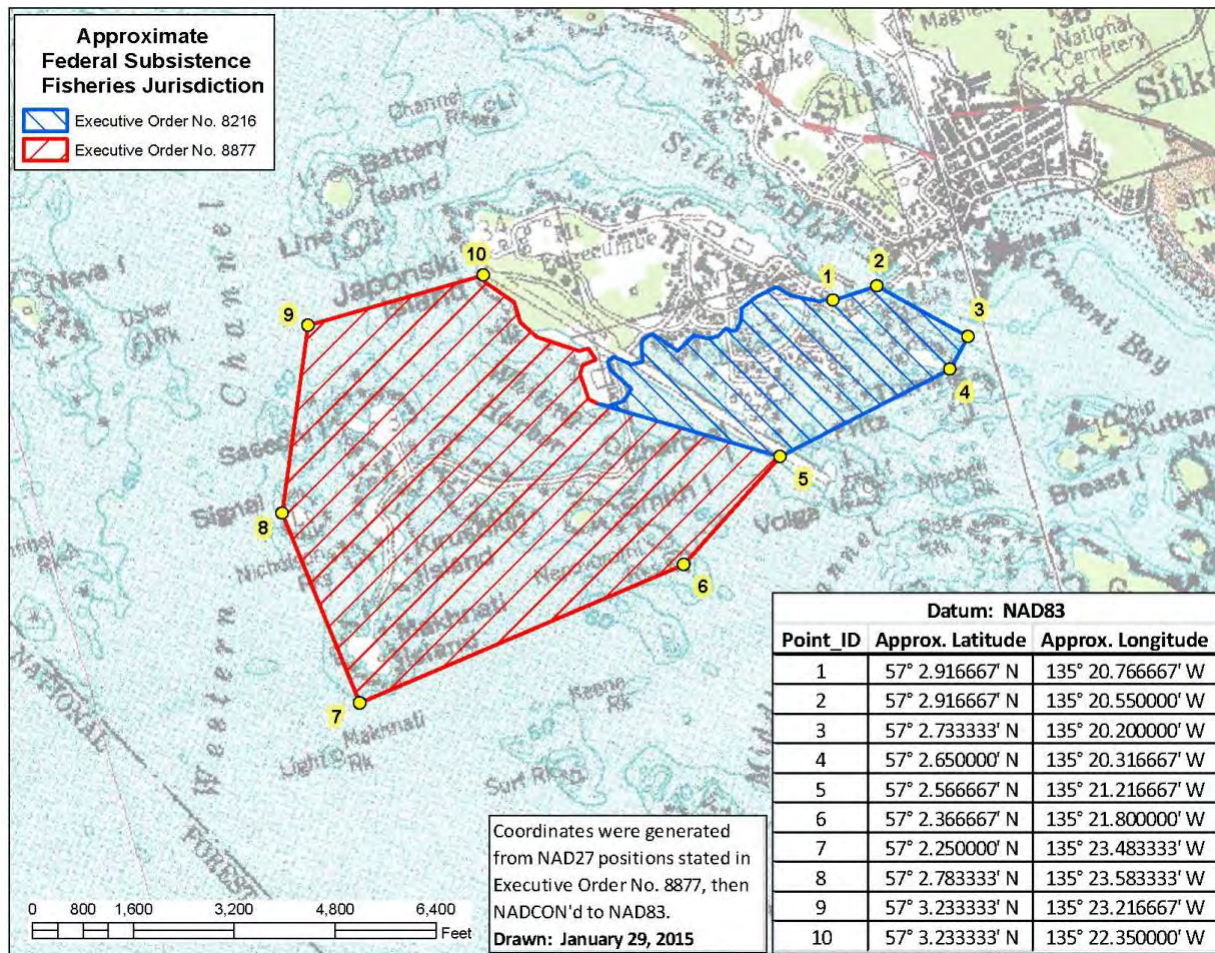


Figure 1. Map of Federal public marine waters in the Makhnati Island area near Sitka, Alaska (Source: OSM 2022).

Background

The rural area of Southeast Alaska encompasses about 32 small to medium sized communities, ranging in population from 25 or less (Point Baker, Elfin Cove, and Game Creek) to over 8,000 (Sitka) (**Table 1**). Many were established by Tlingit people and are situated at historical village sites or were established by Haida (Hydaburg and Kasaan) or Tsimshian (Metlakatla). Population growth in Southeast Alaska during the historical period (beginning in about 1750) has been affected by several waves of immigration. Russian fur traders established Sitka as their headquarters in the late 1700s. After the sale of Alaska to the United States in 1867, new industries (such as commercial fishing, canneries, and mining) and commercial trade were pursued with the associated influx of outsiders (Worl 1990). Beginning in the 1970s, timber logging camps sprang up and some have persisted as new communities, such as Game

Creek and Thorne Bay (Ellanna and Sherrod 1986). Many rural communities in Southeast Alaska have at their core a *kwáan* or tribe (Goldschmidt and Haas 1998). Since 1960, the rural population of Southeast Alaska has doubled from 13,102 people in 1960 to 25,900 people in 2020 (**Table 1**). Some of this growth has been from new communities established near logging activities, growth in the recreation industry, and natural population growth (Cervený 2005).

Table 1. The number of people living in rural Southeast Alaska communities from 1960 to 2020, by fishing district residency, based on the U.S. Census (Source: ADLWD 2022).

Fishing District	Community	1960	1970	1980	1990	2000	2010	2020
1	Hyder CDP	32	49	77	99	97	87	48
1	Metlakatla CDP	1,135	1,245	1,333	1,464	1,375	1,405	1,454
1	Saxman city	153	135	273	369	431	411	384
2	Hollis CDP	0	0	0	111	139	112	65
2	Kasaan city	36	30	25	54	39	49	30
2	Thorne Bay city	0	443	377	569	557	471	476
3	Craig city	273	272	527	1,260	1,397	1,201	1,036
3	Edna Bay city	135	112	6	86	49	42	25
3	Hydaburg city	251	214	298	384	382	376	380
3	Klawock city	251	213	318	722	854	755	720
3	Naukati Bay CDP	0	0	0	93	135	113	142
5	Point Baker CDP	0	80	90	39	35	15	12
5	Port Protection CDP	0	0	40	62	63	48	36
6	Coffman Cove city	0	0	193	186	199	176	127
6	Petersburg Borough	1,528	2,078	2,868	3,230	3,247	2,975	3,398
6	Whale Pass city	0	0	90	75	58	31	86
8	Wrangell Borough	2,165	2,358	2,658	2,479	2,448	2,369	2,127
9	Kake city	455	448	555	700	710	557	543
9	Port Alexander city	18	36	86	119	81	52	78
12	Angoon city	395	400	465	638	572	459	357
12	Tenakee Springs city	109	86	138	94	104	131	116
13	Sitka Borough	3,237	6,109	7,803	8,588	8,835	8,881	8,458
14	Elfin Cove CDP	0	49	28	57	32	20	24
14	Game Creek CDP	0	0	0	61	35	18	23
14	Gustavus city	107	64	98	258	429	442	655
14	Hoonah city	686	748	680	795	860	760	931
14	Pelican city	135	133	180	222	163	88	98
14	Whitestone CDP	0	0	NA	164	116	114	2
15	Haines Borough	1,000	1,504	1,680	2,117	2,392	2,508	2,080
15	Klukwan CDP	112	103	135	129	139	95	87
15	Skagway Muni	659	675	814	692	862	920	1,240
	Yakutat Borough	230	190	449	534	808	662	662
Total		13,102	17,774	22,284	26,450	27,643	26,343	25,238

Eight Factors for Determining Customary and Traditional Use

Customary and traditional uses in a community or area 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. 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 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.

Introduction

Shellfish have been seasonally harvested and used by Tlingit, Haida, and Tsimshian people in the Southeast Alaska Region since well before historical contact and continue to be an important resource as documented in numerous ethnographies (de Laguna 1972, Emmons 1991, Deur et al. 2015) and studies of subsistence uses in the Southeast Alaska Region by Native and non-Native residents (Gmelch and Gmelch 1983; Ellanna and Sherrod 1986; Mills and Firman 1986; Cohen 1989; George and Bosworth 1988; Smythe 1988; Firman and Bosworth 1990; Bosworth 1991; Goldschmidt and Haas 1998; Meuret-Woody et al. 2010; Sill and Koster 2017a, 2017b; and Sill et al. 2017).

Many rural communities in the Southeast Alaska Region are characterized by large extended families with long histories and experience in their local areas and possess considerable depth of knowledge regarding resource skills, values, and cultural connections to shrimp, crabs, clams, cockles, chitons, octopus, and other shellfish (Newton and Moss 2009).

The Tlingit culture has co-evolved with the environment and is well adapted to it. Furthermore, individual kwáans seem to have evolved their cultural adaptations to local environmental conditions (Newton and Moss 2009).

The Tlingit tradition encompasses the wholeness of the natural world and integrates it within the human world. All aspects of culture blend together and incorporate the physical and biological environment so successfully that the division between the “natural” and the human world seems artificial. For example, the *atxaayi*, or lifeway, is not merely the technology of procurement, processing, and storage (Ramos and Mason 2004, Langdon 2007, Newton and Moss 2009). Tlingit describe *atxaayi* as harvesting resources in a way that is “sustainable” in terms of the resiliency of humans, animals, and plants, and “traditional resource harvesting can and should play a role in ecosystem maintenance and conservation” (Deur et al. 2015: 97).

Shellfish are good sources of protein. Gumboots and cockles are high in iron, and gumboots are rich in Vitamin A, riboflavin, and niacin. Shellfish are also relatively low in calories and fat. They are a reliable source of fresh protein and played a prominent role in the traditional diet, especially during late winter and early spring (Hooper 1981 in Newton and Moss 2009).

Historically, people used shellfish for other uses besides food. Large clam shells were used as dishes and spoons. Spoons were also made by attaching smaller clam shells and mussel shells to wooden handles. Pieces of shell were used as surgical tools to puncture and drain inflammations. Large mussel shells were made into knives for dressing wildlife and fish, and medium-sized mussel shells were used as tools by basket makers and mat weavers. Shell fragments were inlaid into carvings and scallop shells were used to make rattles. Various species of starfish and jellyfish were used for medicine (Emmons 1991).

Harvest of shellfish for home use continues throughout the region in all communities, depending on species availability, food preferences, and other factors.

Seasonality

Residents of rural Southeast Alaska lump intertidal plants and animals together as “beach food.” Traditional taxonomies of shellfish used by people in rural Southeast Alaska are described in **Table 2**. Beach food is a good portion of the diet, especially in winter and early spring when little other fresh food is available. In winter, shellfish beds close to villages are harvested for fresh meat as people draw upon their cached provisions. Today, residents of Southeast Alaska are urged to avoid shellfish at certain times of the year because of the danger of paralytic shellfish poisoning (PSP). Many cautionary tales exist among the Tlingit about avoiding shellfish during spring and summer. For example, George Davis, who grew up in Angoon, called April, *Núkt*, the time of year when the grouse hoots and you stop eating clams (Newton and Moss 2009).

Table 2. Shellfishes named in English, Latin, Tlingit, Haida, and Tsimshian (Sources: Goldschmidt and Haas 1998, Newton and Moss 2009, Edwards 2009, Roberts 2009, Lacher 2010).

Common Name	Linnaean	Tlingit	Haida	Tsimshian
Abalone	<i>Haliotis kamtschatkana</i>	Gún̄xaa	Gúlaa	Bilha
Chiton, Gumboot	<i>Cryptochiton stelleri</i>	Shaaw	T'a	'Yaansh
Clam		Gáal'		'Dsa'ack
Butter clam	<i>Saxidomus giganteus</i>	Gáal'	K'yúu, K'áag	
Littleneck clam	<i>Protothaca staminea</i>	Tl'ildaaskeit	K'áag	
Razor clam	<i>Siliqua patula</i>	K'alkátsk	K'amahl	
Horse clam	<i>Tresus spp.</i>	Yeis	Skáw	Loan
Slipper	<i>Crepidula spp.</i>	Koow		
Cockle	<i>Clinocardium nuttallii</i>	Yalooleit	Sgyáal	Ggaboack
Crab		S'áaw	K'ust'áan	'Kalmoash
Dungeness crab	<i>Cancer magister</i>	S'áaw		
King crab	<i>Paralithodes spp.</i> <i>Lithodes spp.</i>	X'éix	Húugaa	
Tanner crab	<i>Chionoecetes spp.</i>	S'áaw		
Snow crab				
Box crab	<i>Lopholithodes sp.</i>	X'éix		
Limpet, Raven's hat	<i>Acmaea sp.</i>	Yéil ts'áaxu		
Mussel	<i>Mytilus sp.</i>	Yaak, Yées'	gál, sǵáw	Gyelsh, Hagwn
Octopus, Devilfish	<i>Octopus dofleini</i>	Náakw	Núu	Ha'tsal
Sea anemone	<i>Metridium spp.</i>	Tayataayi,	Tl'at'áan,	Da'ka'aaw
			Xáng tl'adáan	
Sea cucumber	<i>Apostichopus californicus</i>	Yéin	Yáanuu	Gyantee
Sea urchin	<i>Strongylocentrotus spp.</i>	Nées', X'waash	Gúudiingaay,	Ashwn
			Stáw	
Shrimp	<i>Pandalus spp.</i>	S'éex'át	Dag	

In the days before pot fishing for crabs, Tlingit used to harvest crabs in the spring and summer by fishing off the beaches in the shallow waters during low tide. King Crabs were also harvested when they moved into shallow water in late winter, where they often stayed until spring. Pot fishing increased seasons that King and Tanner crabs could be harvested (Oberg 1973).

Seasonal use is affected by various factors, including species' annual migrations, the weather, tidal fluctuations, other harvesting activities, regulations, and paralytic shellfish-poisoning concerns. Clam harvests are generally avoided during summer months, the season of maximum concern for paralytic shellfish poisoning. Crab and shrimp harvests often occur as a supplemental activity to other boating pursuits or commercial fishing trips (Cohen 1989, Firman and Bosworth 1990).

Method and Means

Shellfish harvest areas are generally the coastal flats, rocky headlands, and sheltered bays close to communities (Cohen 1989: 79–85; Meuret-Woody et al. 2010)

Historically, Dungeness Crabs were speared or kicked out of the sand or mud at low tide (Jacobs and Jacobs 1982). In some cases, special digging sticks were used for crabs and other shellfish (De Laguna 1972). People traditionally harvested King Crabs at low tide using barbed spears, long poles with loop of twine at the end, or bated lines with or without treble hooks that hung below the bait. King and Tanner crabs were also caught in deeper waters while harvesting other species; crabs would either be tangled in the net or fishing line or they would grab a baited hook and be taken to the surface. Many species were gathered at low tide. Occasionally King Crabs were also incidentally caught on halibut gear (Ratner and Turek 2009a).

Currently King and Tanner crabs are harvested with pots in the deeper waters of bays and inlets or when they move to shallow water. At these times, pots are set from local docks or in shallow bays to target King and Dungeness crabs. Shrimp and crabs are also removed from commercial catches for home use; however, the majority of marine resources used for home use are harvested under sport, personal use, or subsistence regulations (Smythe 1988; Ratner and Turek 2009a, 2009b).

Many intertidal shellfish including clams, cockles, chitons, sea urchins, and sea cucumbers, continue to be gathered during low tide. Octopuses are found along the shorelines in small underwater caves or rock overhangs from which they can be extricated using a long handled hook. They are also retained from the bycatch of commercial or personal use shellfish fisheries (Cohen 1989). Abalone are generally picked off rocks at low tide. In some areas, harvesters use diving gear to target shellfish, however the cost of gear and skills required are considerable and limit its use (Ratner and Turek 2009b).

Preparing, Preserving, and Storing

Historically, Tlingit ate shellfish fresh or strung up and dried them for winter use. Sea urchin roe were scooped out and eaten raw. Crabs were boiled and greatly enjoyed (Emmons 1991). Oberg (1973:67) reported that “on the islands great quantities of clams and mussels are taken and dried, smoked, and packed in airtight boxes or hung in the roof where they keep dry.” Clams were baked.

In more recent times, shellfish are eaten fresh or frozen for later consumption. Clams are occasionally canned. Octopuses are pickled, boiled, or fried for human consumption and are also used as bait for halibut (Ratner and Turek 2009b).

Harvest and Use Estimates

Annual harvest estimates between the years 1983 and 2015 were collected by the Alaska Department of Fish and Game (ADF&G) Division of Subsistence in collaboration with rural communities in the Southeast Alaska Region. Estimates suggest that shellfish were used by over 70% of households in most communities and ranged from a low of 15% of households using shellfish at Klukwan in 1983 to a high of 100% of households at Beecher Pass (1987), Coffman Cove (1998), Edna Bay (1987), Game Creek (1996), Kasaan (1987, 1998), Point Baker (1996), and Yakutat (1984) (**Table 3** and **Table 4**, ADF&G 2022).

Table 3. The estimated percentage of households using, attempting to harvest, harvesting, giving, and receiving shellfish during one year study periods between 1983 and 2015, in rural communities in the Yakutat and Southeastern Alaska areas, based on household surveys. A blank cell=question not asked (Source: ADF&G 2022).

Community	Study Year	Households using shellfish	Households attempting to harvest shellfish	Households harvesting shellfish	Households giving shellfish	Households receiving shellfish
Angoon	1984	87%	84%	84%	45%	58%
Angoon	1987	88%		75%	40%	61%
Angoon	1996	89%	78%	78%	42%	73%
Angoon	2012	82%	53%	51%	49%	69%
Beecher Pass	1987	100%		80%	60%	100%
Coffman Cove	1987	72%		41%	18%	62%
Coffman Cove	1998	100%	78%	78%	42%	76%
Craig	1987	76%		48%	25%	62%
Craig	1997	80%	49%	49%	34%	66%
Edna Bay	1987	100%		90%	60%	85%
Edna Bay	1998	50%	42%	42%	8%	17%
Elfin Cove	1987	92%		62%	39%	92%
Game Creek	1996	100%	75%	58%	67%	100%
Gustavus	1987	90%		72%	41%	68%
Haines	1983	42%	27%	20%	5%	29%
Haines	1987	56%		15%	11%	53%
Haines	1996	77%	26%	26%	19%	68%
Haines	2012	74%	39%	39%	21%	52%
Hollis	1987	93%		75%	33%	63%
Hollis	1998	76%	59%	59%	41%	41%
Hoonah	1985	85%		66%		
Hoonah	1987	87%		60%	42%	81%
Hoonah	1996	78%	61%	61%	52%	68%
Hoonah	2012	84%	52%	52%	48%	70%
Hydaburg	1987	91%		69%	43%	87%
Hydaburg	1997	96%	59%	59%	53%	92%
Hydaburg	2012	96%	65%	65%	63%	83%
Hyder	1987	82%		55%	24%	58%
Kake	1985	94%		71%		
Kake	1987	91%		52%	34%	85%
Kake	1996	86%	49%	48%	38%	78%
Kasaan	1987	100%		100%	64%	86%
Kasaan	1998	100%	79%	79%	57%	93%
Klawock	1984	83%	61%	61%	44%	61%
Klawock	1987	77%		41%	24%	62%
Klawock	1997	76%	49%	47%	31%	59%
Klukwan	1983	15%	12%	9%	3%	9%
Klukwan	1987	36%		10%	7%	34%
Klukwan	1996	77%	36%	36%	42%	74%
Klukwan	2014	50%	8%	8%	17%	50%
Metlakatla	1987	83%		39%	28%	74%
Meyers Chuck	1987	90%		70%	20%	60%
Naukati Bay	1998	84%	62%	62%	40%	70%

Community	Study Year	Households using shellfish	Households attempting to harvest shellfish	Households harvesting shellfish	Households giving shellfish	Households receiving shellfish
Pelican	1987	95%		68%	42%	85%
Petersburg	1987	80%		56%	43%	76%
Petersburg	2000	82%	45%	45%	32%	70%
Point Baker	1987	95%		74%	37%	68%
Point Baker	1996	100%	63%	63%	56%	94%
Port Alexander	1987	86%		71%	33%	65%
Port Protection	1987	92%		84%	60%	60%
Port Protection	1996	92%	84%	84%	48%	72%
Saxman	1987	72%		43%	19%	51%
Saxman	1999	73%	38%	38%	34%	58%
Sitka	1987	45%		45%	0%	0%
Sitka	1996	72%	45%	44%	32%	61%
Sitka	2013	64%	38%	37%	32%	50%
Skagway	1987	76%		20%	10%	71%
Tenakee Springs	1984	96%	67%	67%	42%	79%
Tenakee Springs	1987	94%		64%	45%	74%
Thorne Bay	1987	82%		61%	27%	57%
Thorne Bay	1998	60%	48%	48%	23%	34%
Whale Pass	1987	94%		78%	22%	56%
Whale Pass	1998	93%	53%	53%	33%	80%
Whale Pass	2012	81%	57%	57%	14%	48%
Whitstone	1996	79%	67%	67%	25%	46%
Wrangell	1987	86%		43%	30%	77%
Wrangell	2000	83%	47%	46%	43%	72%
Yakutat	1984	100%	76%	76%	56%	96%
Yakutat	1987	93%		76%	56%	89%
Yakutat	2000	91%	75%	72%	64%	79%

Table 4. The estimated harvest of shellfish by edible weight in pounds by rural Southeast Alaska communities during one year study periods between 1983 and 2015 (CI 95%, lower harvest estimate is the lower bound of the estimate or the reported harvest, whichever is larger) (Source: ADF&G 2022).

Community	Study year	Shellfish estimated harvest (in pounds edible weight)	Lower harvest estimate	Upper harvest estimate	Per person harvest
Angoon	1984	8,056	5,281	10,831	13
Angoon	1987	13,510	10,018	17,001	26
Angoon	1996	17,480	13,799	21,161	30
Angoon	2012	7,671	3,774	11,568	22
Beecher Pass	1987	4,100	1,206	8,084	93
Coffman Cove	1987	1,588	1,133	2,044	9
Coffman Cove	1998	10,462	8,256	12,668	49
Craig	1987	33,739	7,953	59,524	29
Craig	1997	50,446	34,643	66,249	29
Edna Bay	1987	4,659	4,437	5,106	67
Edna Bay	1998	864	610	1,480	16

Community	Study year	Shellfish estimated harvest (in pounds edible weight)	Lower harvest estimate	Upper harvest estimate	Per person harvest
Elfin Cove	1987	1,413	967	2,027	24
Game Creek	1996	2,320	1,856	3,720	36
Gustavus	1987	4,336	3,037	5,636	28
Haines	1983	5,293	1,179	9,484	3
Haines	1987	6,563	800	12,326	4
Haines	1996	22,599	8,828	36,370	11
Haines	2012	22,837	9,135	36,539	12
Hollis	1987	3,910	3,910	3,910	49
Hollis	1998	8,251	6,433	10,620	53
Hoonah	1985	20,090	13,481	26,699	22
Hoonah	1987	34,591	21,966	47,215	49
Hoonah	1996	51,956	32,321	71,590	58
Hoonah	2012	29,803	21,369	38,237	41
Hydaburg	1987	19,512	12,383	26,640	51
Hydaburg	1997	40,694	21,703	59,684	101
Hydaburg	2012	27,630	16,799	38,460	83
Hyder	1987	6,639	5,618	9,205	85
Kake	1985	11,944	8,576	15,312	19
Kake	1987	11,307	7,475	15,139	18
Kake	1996	16,381	5,985	26,777	22
Kasaan	1987	2,745	2,745	2,745	69
Kasaan	1998	2,673	2,079	3,921	61
Klawock	1984	13,353	5,681	21,025	28
Klawock	1987	31,799	15,412	48,186	40
Klawock	1997	31,587	19,042	44,132	37
Klukwan	1983	14	11	24	<1
Klukwan	1987	161	119	204	1
Klukwan	1996	1,557	1,341	2,039	14
Klukwan	2014	319	239	327	5
Metlakatla	1987	22,934	11,219	34,650	15
Meyers Chuck	1987	1,914	1,914	1,914	64
Naukati Bay	1998	7,852	5,949	9,820	54
Pelican	1987	11,153	11,153	11,153	47
Petersburg	1987	144,008	47,626	240,389	39
Petersburg	2000	109,287	46,822	171,751	37
Point Baker	1987	2,323	2,323	2,323	66
Point Baker	1996	2,756	2,321	3,727	58
Port Alexander	1987	3,316	3,078	3,554	31
Port Protection	1987	2,506	2,320	2,745	43
Port Protection	1996	13,604	8,503	19,870	139
Saxman	1987	3,704	1,953	5,455	14
Saxman	1999	13,022	10,219	15,825	23
Sitka	1987	145,433	111,989	178,877	18
Sitka	1996	234,496	156,452	312,541	27
Sitka	2013	146,387	73,926	218,849	19
Skagway	1987	5,224	1,023	9,426	9
Tenakee Springs	1984	5,734	2,978	10,816	61

Community	Study year	Shellfish estimated harvest (in pounds edible weight)	Lower harvest estimate	Upper harvest estimate	Per person harvest
Tenakee Springs	1987	4,065	3,012	5,118	43
Thorne Bay	1987	11,485	7,086	15,885	24
Thorne Bay	1998	13,692	5,973	21,572	26
Whale Pass	1987	1,702	1,702	1,702	33
Whale Pass	1998	3,092	2,319	5,064	57
Whale Pass	2012	1,316	1,024	1,786	24
Whitestone	1996	3,274	1,916	4,785	23
Wrangell	1987	107,144	37,705	176,582	38
Wrangell	2000	116,768	15,319	230,408	60
Yakutat	1984	24,802	12,264	37,340	46
Yakutat	1987	23,366	17,529	29,203	40
Yakutat	2000	34,447	27,840	41,053	54
Yakutat	2015	6,926	4,772	9,080	12

Shrimp, crabs, and clams are harvested at the highest levels compared to other shellfish. In some communities, cockles, chitons, scallops, and octopi are also harvested at high levels compared to other shellfish. Smaller numbers of geoducks, mussels, scallops, sea cucumbers, abalone, and sea urchins are harvested (ADF&G 2022). While the overall harvest of shellfish is generally high, harvest levels depend on species availability, species migration patterns, food preferences, and other factors (Firman and Bosworth 1990, Smythe 1988, Cohen 1989).

Sharing

Traditionally and historically, environmental and seasonal variations have significant influence on the Tlingit people, their relationship to their territory, and with one another. Kwáans are composed of a number of clans each of which travelled seasonally to subsistence camps but returned to a permanent winter village to join the other clans belonging to that kwáan. Clan ties extend beyond circumscribed local areas; many clans are represented by people living in the permanent villages of several kwáans. At another level of organization, clans are grouped together to form the Raven and Eagle and in some places the Wolf moieties. These nested relationships mean that everyone has some kind of relative in each community, and this greatly facilitates trade. Island residents might visit their mainland relatives and exchange herring eggs, seal oil, seaweed, dried venison or shellfish for mainland furs, eulachon grease, or mountain goat wool. Both the uneven distribution of the various natural resources and the complexity of social relationships encourages the long distance travel and trade for which the Tlingit are famous (Newton and Moss 2009).

Shellfish were and continue to be distributed through kin and community networks. People sharing their harvests of wild resources is a predominant feature of subsistence economies in Alaska. **Table 5** indicates that high levels of sharing occur in rural Southeast Alaska communities. A large majority of households share, either through giving or receiving, based on household surveys conducted since the 1980s (ADF&G 2022).

Table 5. The estimated percentage of households using, attempting to harvest, harvesting, giving, and receiving wild resources during one year study periods between 1983 and 2015 in rural Southeast Alaska communities, based on household surveys (Source: ADF&G 2022).

Community	Study year	Households using wild resources	Households harvesting wild resources	Households giving wild resources	Households receiving wild resources
Angoon	1984	97%	97%	74%	87%
Angoon	1987	100%	99%	84%	93%
Angoon	1996	97%	93%	68%	95%
Beecher Pass	1987	100%	100%	100%	100%
Coffman Cove	1987	97%	88%	53%	90%
Coffman Cove	1998	100%	98%	78%	86%
Craig	1987	97%	91%	70%	88%
Craig	1997	99%	90%	16%	91%
Edna Bay	1987	100%	100%	100%	100%
Edna Bay	1998	100%	100%	58%	58%
Elfin Cove	1987	100%	100%	92%	100%
Game Creek	1996	100%	100%	83%	100%
Gustavus	1987	100%	100%	90%	90%
Haines	1983	97%	88%	42%	78%
Haines	1987	93%	83%	67%	85%
Haines	1996	98%	91%	72%	97%
Haines	2012	99%	90%	71%	90%
Hollis	1987	100%	88%	59%	93%
Hollis	1998	96%	91%	67%	74%
Hoonah	1987	100%	95%	84%	100%
Hoonah	1996	97%	95%	78%	90%
Hoonah	2012	98%	90%	85%	96%
Hoonah	2016	100%	94%	88%	98%
Hydaburg	1987	100%	91%	75%	93%
Hydaburg	1997	100%	90%	80%	100%
Hydaburg	2012	100%	98%	90%	98%
Hyder	1987	97%	91%	33%	76%
Kake	1987	97%	91%	66%	91%
Kake	1996	99%	85%	75%	96%
Kasaan	1987	100%	100%	86%	100%
Kasaan	1998	100%	100%	93%	100%
Klawock	1984	100%	97%	83%	81%
Klawock	1987	100%	96%	62%	83%
Klawock	1997	100%	91%	77%	94%
Klukwan	1983	100%	97%	64%	70%
Klukwan	1987	100%	95%	74%	100%
Klukwan	1996	100%	94%	90%	100%
Klukwan	2014	100%	79%	100%	88%
Metlakatla	1987	100%	77%	53%	99%
Meyers Chuck	1987	100%	100%	60%	80%
Naukati Bay	1998	98%	94%	66%	90%
Pelican	1987	100%	92%	78%	99%
Petersburg	1987	97%	94%	87%	93%
Petersburg	2000	94%	78%	55%	87%
Point Baker	1987	100%	100%	90%	95%
Point Baker	1996	100%	100%	75%	100%

Community	Study year	Households using wild resources	Households harvesting wild resources	Households giving wild resources	Households receiving wild resources
Port Alexander	1987	100%	100%	86%	94%
Port Protection	1987	100%	100%	80%	96%
Port Protection	1996	100%	92%	76%	96%
Saxman	1987	97%	83%	45%	95%
Saxman	1999	97%	79%	70%	92%
Sitka	2013	99%	91%	76%	92%
Skagway	1987	96%	68%	38%	93%
Tenakee Spr	1984	96%	88%	79%	92%
Tenakee Spr	1987	100%	90%	68%	97%
Thorne Bay	1987	100%	97%	66%	87%
Thorne Bay	1998	93%	91%	61%	57%
Whale Pass	1987	100%	100%	72%	67%
Whale Pass	1998	100%	100%	80%	100%
Whale Pass	2012	100%	100%	67%	76%
Whitestone	1996	100%	96%	50%	67%
Wrangell	1987	95%	80%	63%	90%
Wrangell	2000	94%	81%	65%	89%
Yakutat	1984	100%	98%	86%	98%
Yakutat	1987	96%	96%	99%	93%
Yakutat	2000	100%	95%	89%	99%
Yakutat	2015	99%	93%	87%	97%

Reliance upon a Wide Diversity of Fish and Wildlife

Most communities in Southeast Alaska rely on a wide variety of wild resources. These resources comprise a substantial portion of dietary intake. The Alaska Department of Fish and Game Division of Subsistence household surveys conducted between 1983 and 2015 demonstrate this variety of use. Harvest level estimates are described in categories such as salmon, nonsalmon fish, land mammals, marine mammals, birds and eggs, shellfish, and plants and berries in pounds edible weight annually. Overall annual harvest rates above 200 pounds per person are common. In general, rural Southeast Alaska communities harvest fish at the highest rates and land mammals, such as deer and moose, and shellfish are also harvested at high rates. Marine mammals, birds, and plants and berries compose smaller portions of annual harvests but are important components of the diet (**Table 5**, ADF&G 2022).

Table 5. The estimated harvest of wild resources for subsistence, in pounds of edible weight per person, in rural Southeast Alaska communities during one year study periods between 1983 and 2015, based on household surveys (Source: ADF&G 2022).

Community	Study year	Salmon	Nonsalmon fishes	Land mammals	Marine mammals	Birds and eggs	Shellfish	Plants and berries	Total
Angoon	1984	74	46	58	17	1	13	8	216
Angoon	1987	71	35	73	32	1	26	7	244
Angoon	1996	82	48	51	9	0	30	4	224
Angoon	2012	37	53	51	5	0	22	13	183
Beecher Pass	1987	131	108	109	0	23	93	13	477

Community	Study year	Salmon	Nonsalmon fishes	Land mammals	Marine mammals	Birds and eggs	Shellfish	Plants and berries	Total
Coffman Cove	1987	52	56	60	1	1	9	5	183
Coffman Cove	1998	63	83	66	1	3	49	11	276
Craig	1987	40	62	42	5	1	29	6	185
Craig	1997	65	63	47	10	1	29	19	232
Edna Bay	1987	99	135	147	0	4	67	26	479
Edna Bay	1998	55	186	90	0	0	16	36	383
Elfin Cove	1987	81	59	72	0	0	24	27	263
Game Creek	1996	27	54	47	0	3	36	20	187
Gustavus	1987	55	82	64	0	2	28	10	241
Haines	1983	46	33	34	1	3	3	5	126
Haines	1987	28	37	23	0	1	4	5	97
Haines	1996	58	81	29	1	1	11	15	196
Haines	2012	47	38	28	0	1	12	10	135
Hollis	1987	44	35	42	0	1	49	11	183
Hollis	1998	40	31	40	0	0	53	6	169
Hoonah	1985	47	40	58	21	1	22	21	210
Hoonah	1987	100	78	90	53	1	49	13	385
Hoonah	1996	113	67	81	23	1	58	30	372
Hoonah	2012	72	120	52	13	2	41	44	343
Hydaburg	1987	137	83	43	7	1	51	14	336
Hydaburg	1997	117	109	35	3	1	101	19	384
Hydaburg	2012	214	133	68	5	0	83	27	531
Hyder	1987	121	86	32	8	6	85	7	345
Kake	1985	69	46	27	26	1	19	29	218
Kake	1987	35	33	39	23	1	18	15	163
Kake	1996	44	42	52	10	1	22	9	179
Kasaan	1987	32	32	40	2	0	69	6	182
Kasaan	1998	93	184	70	25	0	61	19	452
Klawock	1984	69	58	36	14	1	28	18	223
Klawock	1987	75	72	47	5	1	40	7	247
Klawock	1997	105	78	54	21	1	37	24	320
Klukwan	1983	114	33	14	2	1	0	6	170
Klukwan	1987	124	81	14	8	1	1	10	238
Klukwan	1996	267	252	28	3	1	14	45	608
Klukwan	2014	299	101	26	4	1	5	16	452
Metlakatla	1987	20	17	11	1	1	15	5	70
Meyers Chuck	1987	105	174	48	0	9	64	14	414
Naukatli Bay	1998	49	73	51	1	2	54	12	242
Pelican	1987	60	119	111	8	1	47	9	355
Petersburg	1987	45	44	57	0	4	39	9	198
Petersburg	2000	60	42	17	0	1	37	4	161
Point Baker	1987	89	66	101	0	3	66	20	346
Point Baker	1996	82	89	47	0	0	58	12	289
Prt Alexander	1987	70	70	108	3	1	31	28	312
Prt Protection	1987	111	88	41	0	2	43	19	304
Prt Protection	1996	59	111	101	9	2	139	30	451
Saxman	1987	33	19	20	2	0	14	4	94

Community	Study year	Salmon	Nonsalmon fishes	Land mammals	Marine mammals	Birds and eggs	Shellfish	Plants and berries	Total
Saxman	1999	84	47	29	12	0	23	23	217
Sitka	1987	39	43	38	1	1	18	5	145
Sitka	1996	58	54	51	7	1	27	7	205
Sitka	2013	46	68	26	3	0	19	12	175
Skagway	1987	18	16	4	0	0	9	2	48
Tenakee Spr	1984	71	42	65	4	0	61	7	250
Tenakee Spr	1987	49	82	135	8	2	43	11	330
Thorne Bay	1987	48	73	40	0	1	24	4	189
Thorne Bay	1998	62	37	36	11	1	26	6	179
Whale Pass	1987	41	37	60	2	1	33	5	179
Whale Pass	1998	28	36	51	0	0	57	13	185
Whale Pass	2012	52	76	80	0	13	24	3	247
Whitestone	1996	21	71	57	0	1	23	5	178
Wrangell	1987	30	43	32	7	1	38	4	155
Wrangell	2000	26	34	39	0	1	60	8	168
Yakutat	1984	129	82	52	24	10	46	26	369
Yakutat	1987	216	77	15	31	2	40	17	398
Yakutat	2000	145	87	34	35	3	54	27	386
Yakutat	2015	93	47	49	33	4	12	25	262

Effects of the Proposal

If Proposal FP23-20 is adopted, then rural residents of the Southeastern Alaska-Yakutat Areas will be eligible to harvest shellfish under Federal regulations in the future; no Federal shellfish regulations exist in Southeast Alaska at this time. If adopted, these regulations will cover shellfish harvesting in the Makhnati Island area near Sitka, primarily. Other rural residents of Alaska will no longer be eligible to harvest shellfish in the remainder area of Southeast Alaska. Effects on shellfish populations are anticipated to be minimal.

If Proposal FP23-20 is not adopted, then status quo is maintained. The Board recognizes customary and traditional uses of some but not all shellfish species by rural residents of Southeast Alaska in all or parts of Districts 1, 3 and 13 (including Federal public waters of the Makhnati Island Area). Effects on other uses and shellfish populations are not anticipated.

OSM PRELIMINARY CONCLUSION

Support Proposal FP23-20

Justification

The harvest and use of shellfish by rural residents of Southeast Alaska exemplify customary and traditional uses even though few marine waters are currently under Federal jurisdiction. Marine waters

currently under Federal jurisdiction are in the Makhnati Island area near Sitka, primarily. The Southeast Alaska Council's stated intent is to request the Board to recognize customary and traditional uses of all fish and wildlife in Southeast Alaska that have been taken for food or other purposes, including handicrafts, ceremonies, and customary trade. The Council said its recommendations to the Board are intended to include residents of all rural Southeast communities and areas, and the three criteria in Section 804 of ANILCA is the regulatory process the Board should use to allocate resources, when necessary, and not customary and traditional use determinations. This will greatly simplify the patchwork of determinations.

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PUBLIC COMMENTS

July 25, 2022

TO Theo Matuskowitz, subsistence@fws.gov
FROM Tongass Women's Earth & Climate Action Network,
SUBJECT FP 23-20 ANILCA Title VIII Sec. 804 Customary & Traditional Use

Expanding Federal Qualified Subsistence Users **during shortages** makes no sense, and is contradictory to the original intent of the law of protecting Alaska Native cultural existence.

Broadening CTU of Shellfish and Fish to "*greatly simplify*" such determination by reverting to the state of Alaska's outdated 1992 version opposes the original 1980 intent of the law and the FSB. The state of Alaska's 1959 shortsighted constitution is out of Federal compliance to ANILCA's regulatory allocation process of natural resources when shortages call for ANILCA's Title VIII PRIORITY USE.

State of Alaska carelessly co-manages with the FSB for CTU subsistence puts Alaska Natives in harms way to the state courts without the opportunity of "*due process*" under the law through appropriate legal counsel. State court records are self-indicting.

This issue goes deeper than the mere "*taking*" of wild resources categories to sustain and protect continued Alaska Native cultural existence and traditions into the future. This issue bumps into the element of EMINENT DOMAIN claimed by the U.S. when Alaska Natives gained permission by the **U.S. Court of Claims** to file suit against the U.S. government – not the territory of Alaska, not the state of Alaska.

REALITY: The U.S. compensated for ANCSA under the concept of EMINENT DOMAIN – not the state of Alaska claiming everyone as "*equal*" under state law to use and access all resources for commercial use – **while pointedly not recognizing 229 ALASKA NATIVE VILLAGE GOVERNMENTS and populations.**

EMINENT DOMAIN of the United States is the right to take, or authorize the "*taking*" of private property for public use – with **just compensation** = Alaska Native Claims Settlement Act (ANCSA), it took decades for this accomplishment!

Include the term of "*simplicity*" to examine the word **EMINENT**:

1. Rising above other things, places, high, lofty stature.
2. Projecting as prominent, protruding.
3. Standing high above others, exalted, renowned.
4. Outstanding, remarkable, noteworthy, good sense.

WIKIPEDIA: *The power of a state, provincial, or national government to take private property for public use. It does not include taking or transferring ownership to another private property owner (like the state of Alaska), without valid public purpose.*

Eminent Domain can be legislatively delegated by state government to local municipalities, governments, subdivisions, private persons and corporations. . . when legislatively / legally authorized to exercise such functions of public character, for public utilities, and associated roads (i.e., The Roadless Rule), government buildings, redevelopment of blighted or impediment property based on principles of negative impact for original owners – later expanding to a 3rd party owner development to increase tax revenue to any / state government.

A taking must accompany “just compensation” to the former owners. Whether the taking is through legislative action or court decision, Constitutional law must weigh in.

RECOMMENDATION:

For the purposes of simplicity, begin at the top. **The Secretaries of the Interior and Agriculture** must unite efficiently and effectively for the focus of “*subsistence management*” through the FSB. Each are legally intertwined with the capacity to do this.

Expand Customary and Traditional Use DEFINITION to include **the list of 229 Alaska Federally Recognized Tribes and Tribal Governments** – in accordance with P.L. 93-638 Indian Self-Determination Act of 1976 administered by the **DOI-Bureau of Indian Affairs**.

Surviving “*Indian country*” recognition in Alaska after ANCSA exterminations is Annette Island Tsimshian Reservation near Ketchikan; and Indian Townsite and Native Allotment deeded lands and properties whose boundaries are still under the authority of the **DOI-Bureau of Land Management** and trespass protections by the **BIA**.

The above mentioned **DOI agencies** must become visibly present and active on the FSB structure – as must the **SOI National Park Service**. And, the **SOI Fish & Wildlife Service** must begin actively managing their subsistence protection duties on behalf of coastal villages and transboundary fish and wildlife species.

The **SOA-Forest Service** has this year met with the Indigenous and local communities of the Tongass Forest to strategize how their agencies can work together effectively and efficiently providing their program services during today’s economic down turn and global warming and health crises.

The SOA has taken the lead to efficiency and effectiveness.

WHY NOT TO EXPAND CTU:

INDIGENOUS Alaska Natives are produced, born, and grown naturally to specific habitats, found nowhere else in the world; native, innate, inherent, inborn to the land.

CUSTOMARY laws are established by rooted practices and proven usage of social convention, TRADITIONAL origin, orally handed up through stories, symbolism, customs, and beliefs through generations of time.

CTU is in by nature self-managing for times of plenty and extreme shortages. This unique way of life is substantiated through reports and studies of federal, state, private, and scientific interests. And through the words of Indigenous ancestors.

Expanding CTU to all colonial-based settlements is oil to water, a contaminant against historic pre-existence to favor U.S. laws and its "union" spawn. Apples and oranges, circles and squares, pristine and polluted.

2011 Federal Register expanded the FSB from 5 to 7.

It would have been managerially simpler to expand the Regional Advisory Councils from 10 to 12 complying with the Alaska Native Claims Settlement Act (ANCSA)'s 12 corporate regions - rather than plastering to the Alaska Department of Fish and Game's 10 game units.

Such would have been a natural draw for the 12 AK Native Regional Business Corporations to take an interest into the important management of "subsistence" and use of natural resources on Alaska Native-owned private property.

The federal law recognizes tribes and corporations but provides no connective foothold or guidance through the FSB process for this expanded responsibility to grow from.

This is all about clearly identifying numerous perimeters and the enjoining of both Indigenous and colonial grassroot thinking with pertinent laws that are already or should be married to each other. Then WECAN all move forward individually and cumulatively with the simplicity of common sense from the ground up, the inside out, in unison.

There absolutely is no such thing as one size fits all in today's reality.

Wanda J Culp, Coordinator, Juneau, Alaska, wandajculp@yahoo.com
Rebekah Contrarez, Representative, Hoonah, Alaska
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APPENDIX 1

SOUTHEAST ALASKA FEDERAL PUBLIC WATERS—MARINE WATERS

§ 100.3 Applicability and scope.

(b) The regulations contained in this part apply on all public lands, including all inland waters, both navigable and non-navigable, within and adjacent to the exterior boundaries of the following areas, and on the marine waters as identified in the following areas:

(5) Southeastern Alaska, including the:

(i) Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°02'35" north latitude, 135°21'07" west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S 58° W, 2,500 feet, to the southern point of Nepovorotni Rocks; S 83° W, 5,600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N 6° W, 4,200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N 24° E, 3,000 feet, to a point, 57°03'15" north latitude, 134°23'07" west longitude; East, 2,900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1,496 to angle point No. 35, on the southwestern point of Japonski Island; S 60° E, 3,300 feet, along the boundary line of Naval reservation described in Executive Order No. 8216, July 25, 1939, to the point of beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by metes and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S 45° E. along the main channel approximately 20.00 chains; thence S 45° W, approximately 9.00 chains to the southeastern point of Aleutski Island; thence S 79° W, approximately 40.00 chains to the southern point of Fruit Island; thence N 60° W, approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of U.S. Survey No. 1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, and Fruit islands and a number of smaller unnamed islands.

(ii) Tongass National Forest:

(A) Beacon Point, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210 - Sheet No. 16. The reference location is marked as 57 south, 79 east, CRM, SEC 8, U.S. Survey No. 1604. The point begins on the low-water line at N 63° W, true and approximately 1,520 feet from Beacon Point beacon; thence due south true 1,520 feet; thence true East 1,800 feet, more or less to an intersection with a low-water line; thence following, is the low-water line round the point to point of the beginning (Approx. Long. 133°00' W, Lat. 56°56 1/4' N).

(B) Bushy Island and Snow Passage are shown on the U.S. Coast and Geodetic Survey Chart, labeled No. 8160 - Sheet No. 12. The reference location is marked as 64 south, 80 east, CRM, SEC. 31/32 on the map labeled, USS 1607. The point begins on a low-water line about 1/4 nautical miles and southwesterly from the northwest point of the island, from which a left tangent to an island that is 300 yards in diameter and 100 yards offshore, bears the location - N 60° W, true; thence S 60° E, true and more or less 2,000 feet to an intersection with a low-water line on the easterly side of the island; thence forward along the winding of the low-water line northwesterly and southwesterly to the point of the beginning, including all adjacent rocks and reefs not covered at low water (Approx. Long. 132°58' W, Lat. 56°16 1/2' N).

(C) Cape Strait, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210 - Sheet No. 16. The reference location is marked as 56 south, 77478 east, CRM, on the map labeled as USS 1011. It begins at a point on a low-water line that is westerly from the lighthouse and distant 1,520 feet in a direct line from the center of the concrete pier upon which the light tower is erected; thence South 45° E, true by 1,520 feet; thence east true by 1,520 feet, more or less to an intersection with the low-water line; thence north-westerly and westerly, following the windings of the low-water line to the point of beginning (Approx. Long. 133°05' W, Lat. 57°00' N).

(D) Point Colpoys and Sumner Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160 - Prince of Wales Island - Sheet No. 12. The reference location is marked as 64 south, 78 east, CRM, SECs. 10, 11, 12 on the map labeled as USS 1634. Location is north of a true east-and-west line running across the point to 1,520 feet true south from the high-water line at the northernmost extremity. Map includes all adjacent rocks and ledges not covered at low water and also includes two rocks awash about 1 1/4 nautical miles east and South and 75° East, respectively, from the aforementioned point (Approx. Long. 133°12' W, Lat. 56°20' N).

(E) Vank Island and Stikine Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160 - Sheet No. 18. Located at 62 south, 82 east, CRM, SEC 34, on the map labeled as USS 1648. This part of the island is lying south of a true east-and-west line that is drawn across the island from low water to low water. Island is 760 feet due North from the center of the concrete pier upon which the structure for the light is erected (Approx. Long. 132°35' W, Lat. 56°27' N).

(F) High Point, and Woronkofski Island, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8160 - Sheet No. 18. The location begins at a point on low water at the head of the first bight easterly of the point and about 1/8 nautical mile distant therefrom; thence south true 1,520 feet; thence west true 1,100 feet, more or less to an intersection with the low-water line; thence northerly and easterly, following the windings of the low-water line to point of the beginning (Approx. Long. 132°33' W, Lat. 56°24' N).

(G) Key Reef and Clarence Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160 - Sheet No. 11. The reef lies 13/4 miles S. 80° E, true, from Bluff Island and becomes awash at extreme high water. Chart includes all adjacent ledges and rocks not covered at low water (Approx. Long. 132°50' W, Lat. 56°10' N).

(H) Low Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160 - Sheet No. 22. The location begins at a point on a low-water line that is 760 feet in a direct line, easterly, from the center of Low Point Beacon. The position is located on a point of shoreline about 1 mile easterly from Low Point; thence S. 35° W, true 760 feet; thence N 800 feet and W 760 feet, more or less, to an intersection with the low-water line to the point of beginning (Approx. Long. 132°55 1/2' W, Lat. 56°27 1/2' N).

(I) McNamara Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160 - Sheet No. 25. Location begins at a point on a low-water line that is 1,520 feet in a direct line, northerly, from McNamara Point Beacon - a slatted tripod structure; thence true east 1,520 feet; thence true south, more or less, 2,500 feet to an intersection with the low-water line; thence northwesterly and northerly following the windings of the low-water line to the point of the beginning (Approx. Long. 133°04' W, Lat. 56°20' N).

(J) Mountain Point and Wrangell Narrows, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8170 - Sheet No. 27. The location begins at a point on a low-water line southerly from the center of Mountain Point Beacon and distant there from 1,520 feet in a direct line; thence true west 1,520 feet; thence true north, more or less, 3,480 feet to an intersection with the low-water line; thence southeasterly and southerly following the windings of the low-water line to the point of the beginning (Approx. Long. 132°57 1/2' W, Lat. 56°44' N).

(K) Angle Point, Revillagigedo Channel, and Bold Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8075 - Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, USS 1603. The location begins at a point on a low-water line abreast of the lighthouse on Angle Point, the southwestern extremity of Bold Island; thence easterly along the low-water line to a point that is 3,040 feet in a straight line from the beginning point; thence N 30° W, True 3,040 feet; thence true west to an intersection with the low-water line, 3,000 feet, more or less; thence southeasterly along the low-water line to the point of the beginning (Approx. Long. 131°26' W, Lat. 55°14' N).

(L) Cape Chacon, Dixon Entrance, and Prince of Wales Island are shown on the U.S Coast and Geodetic Survey Chart No. 8074 - Sheet No. 29. The reference location is marked as 83 south, 89 and 90 east, CRM, USS 1608. The location begins at a point at the low-water mark on the shore line of Dixon Entrance from which the southern extremity of Cape Chacon bears south 64° true East and approximately 3/4 nautical miles; thence N 45° true East and about 1 nautical mile, more or less, to an intersection with a low-water line on the shore of Clarence Strait; thence southerly, following the meanderings of the low-water line of the shore, to and around Cape Chacon, and continuing to the point of the beginning. Reference includes all adjacent islands, islets, rocks, and reefs that are not covered at the low-water line (Approx. Long 132° W, Lat. 54°42' N).

(M) Lewis Reef and Tongass Narrows are shown on the U.S Coast and Geodetic Survey Chart No. 8094 - Sheet No. 71. The reference location is marked as 75 south, 90 east, CRM, SEC 9. The area point begins at the reef off of Lewis Point and partly bare at low water. This part of the reef is not covered at low water and lies on the northeast side of a true northwest-and-southeast line that is located 300 feet true southwest from the center of the concrete pier of Lewis Reef Light (Approx. Long. 131°44 1/2' W, Lat. 55°22'25" N).

(N) Lyman Point and Clarence Strait are shown on the U.S Coast and Geodetic Survey, Chart No. 8076 - Sheet No. 8. The reference location is marked as 73 south, 86 east, CRM, SEC 13, on a map labeled as USS 2174 TRC. It begins at a point at the low-water mark. The aforementioned point is 300 feet in a direct line easterly from Lyman Point light; thence due south 300 feet; thence due west to a low-water mark 400 feet, more or less; thence following the winding of the low-water mark to place of beginning (Approx. Long. 132°18' W, Lat. 35°35' N).

(O) Narrow Point, Clarence Strait, and Prince of Wales Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8100 - Sheet No. 9. The reference location is marked as 70 south, 84 east, CRM, on a map labeled as USS 1628. The point begins at a point on a low-water line about 1 nautical mile southerly from Narrow Point Light, from which point a left tangent to a high-water line of an islet about 500 yards in diameter and about 300 yards off shore, bears south 30° true East; thence north 30° W, true 7,600 feet; thence N 60° E, 3,200 feet, more or less to an intersection with a low-water line; thence southeasterly, southerly, and southwesterly, following the winding of the low-water line to the point of the beginning. The map includes all adjacent rocks not covered at low water (Approx. Long. 132°28' W, Lat. 55°47 1/2' N).

(P) Niblack Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. coast and Geodetic Survey Chart No. 8102 - Sheet No. 6, which is the same sheet used for Caamano Point. The location begins at a point on a low-water line from which Niblack Point Beacon, a tripod anchored to three concrete piers, bears southeasterly and is 1,520 feet in a direct line; thence true northeast 1,520 feet; thence true southeast 3,040 feet; thence true southwest at 600 feet, more or less, to an intersection with a low-water line; thence northwesterly following the windings of the low-water line to the point of the beginning (Approx. Long. 132°07' W, Lat. 55°33' N).

(Q) Rosa Reef and Tongass Narrows are shown on the U.S. Coast and Geodetic Survey Chart No. 8094 - Sheet No. 71. The reference location is marked as 74 south, 90 east, CRM, SEC 31. That part of the reef is not covered at low water and lies east of a true north-and-south line, located 600 feet true west from the center of the concrete pier of Rosa Reef Light. The reef is covered at high water (Approx. Long. 131°48' W, Lat. 55°24' 15" N).

(R) Ship Island and Clarence Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8100 - Sheet No. 9. The reference location is marked as south, 8 east, CRM, SEC 27. The point begins as a small island on the northwesterly side of the Clarence Strait, about 10 nautical miles northwesterly from Caamano Point and 1/4 mile off the shore of Cleveland Peninsula. The sheet includes all adjacent islets and rocks not connected to the main shore and not covered at low water (Approx. Long. 132°12' W, Lat. 55°36' N).

(S) Spire Island Reef and Revillagigedo Channel are shown on the U.S. Coast and Geodetic Survey Chart No. 8075 - Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, SEC 19. The detached reef, covered at high water and partly bare at low water, is located northeast of Spire Island. Spire Island Light is located on the reef and consists of small houses and lanterns surmounting a concrete pier. See chart for "Angle Pt." (Approx. Long 131°30' W, Lat. 55°16' N).

(T) Surprise Point and Nakat Inlet are shown on the U.S. Coast and Geodetic Survey Chart No. 8051 - Sheet No. 1. The reference location is marked as 80 south, 89 east, CRM. This point lies north of a true east-and-west line. The true east-and-west line lies 3,040 feet true south from the northernmost extremity of the point together with adjacent rocks and islets (Approx. Long. 130°44' W, Lat. 54°49' N).

(U) Caamano Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8102 - Sheet No. 6. Location consists of everything apart of the extreme south end of the Cleveland Peninsula lying on a south side of a true east-and-west line that is drawn across the point at a distance of 800 feet true north from the southernmost point of the low-water line. This includes off-lying rocks and islets that are not covered at low water (Approx. Long. 131°59' W, Lat. 55°30' N).

(V) Meyers Chuck and Clarence Strait, Alaska, are shown on the U.S. and Geodetic Survey Chart No. 8124 - Sheet No. 26. The small island is about 150 yards in diameter and located about 200 yards northwest of Meyers Island (Approx. Long. 132°16' W, Lat. 55°44 1/2' N).

(W) Round Island and Cordova Bay, Alaska, are shown on the U.S coast and Geodetic Survey Chart No. 8145 - Sheet No. 36. The Southwestern Island of the group is about 700 yards long, including off-lying rocks and reefs that are not covered at low water (Approx. Long. 132°30 1/2' W, Lat. 54°46 1/2' N).

(X) Mary Island begins at a point that is placed at a low-water mark. The aforementioned point is southward 500 feet from a crosscut on the side of a large rock on the second point below Point Winslow and Mary Island; thence due west 3/4 mile, statute; thence due north to a low-water mark; thence following the winding of the low water to the place of the beginning (Approx. Long. 131°11' 00" W, Lat. 55°05' 55" N).

(Y) Tree Point starts a point of a low-water mark. The aforementioned point is southerly 1/2 mile from extreme westerly point of a low-water mark on Tree Point, on the Alaska Mainland; thence due true east, 3/4 mile; thence due north 1 mile; thence due west to a low-water mark; thence following the winding of the low-water mark to the place of the beginning (Approx. Long. 130°57' 44" W, Lat. 54°48' 27" N).

FP23-21 Executive Summary	
General Description	FP23-21 requests closing the Federal waters of Kah Sheets Creek and Kah Sheets Lake to non-Federally qualified users. <i>Submitted by: Gina Uppencamp</i>
Proposed Regulation	§ __.27(e)(13) <i>Southeastern Alaska Area</i> *** <i>(xxiii) The Federal public waters of Kah Sheets Lake and Kah Sheets Creek are closed to Sockeye Salmon fishing except by Federally qualified subsistence users</i>
OSM Preliminary Conclusion	Support Proposal FP23-02 with modification to close Kah Sheets Creek to non-Federally qualified users from July 1 to July 31, while leaving Kah Sheets Lake open to all users.
Southeast Alaska Subsistence Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	2 Support

DRAFT STAFF ANALYSIS
FP23-21

ISSUES

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

DISCUSSION

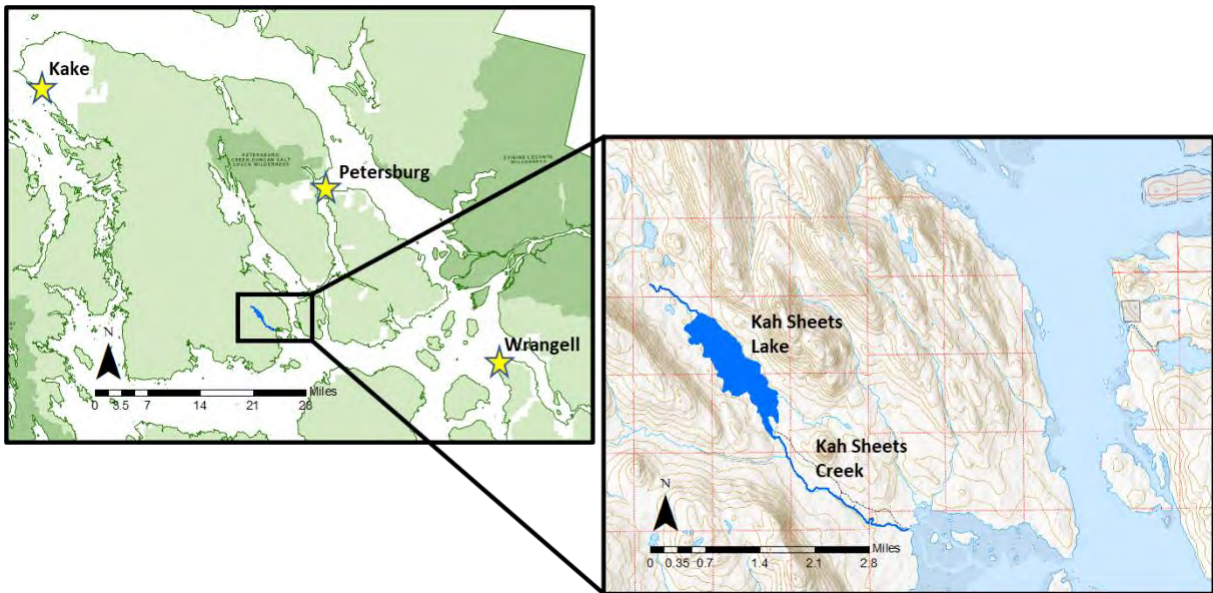
The proponent states that subsistence harvest of Sockeye Salmon at Kah Sheets Creek (pronounced “k’sheets”, **Map 1**) has been decreasing since 2012 due to conflict between Federally qualified subsistence users and non-Federally qualified users. The proponent attributes this conflict to the limited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

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

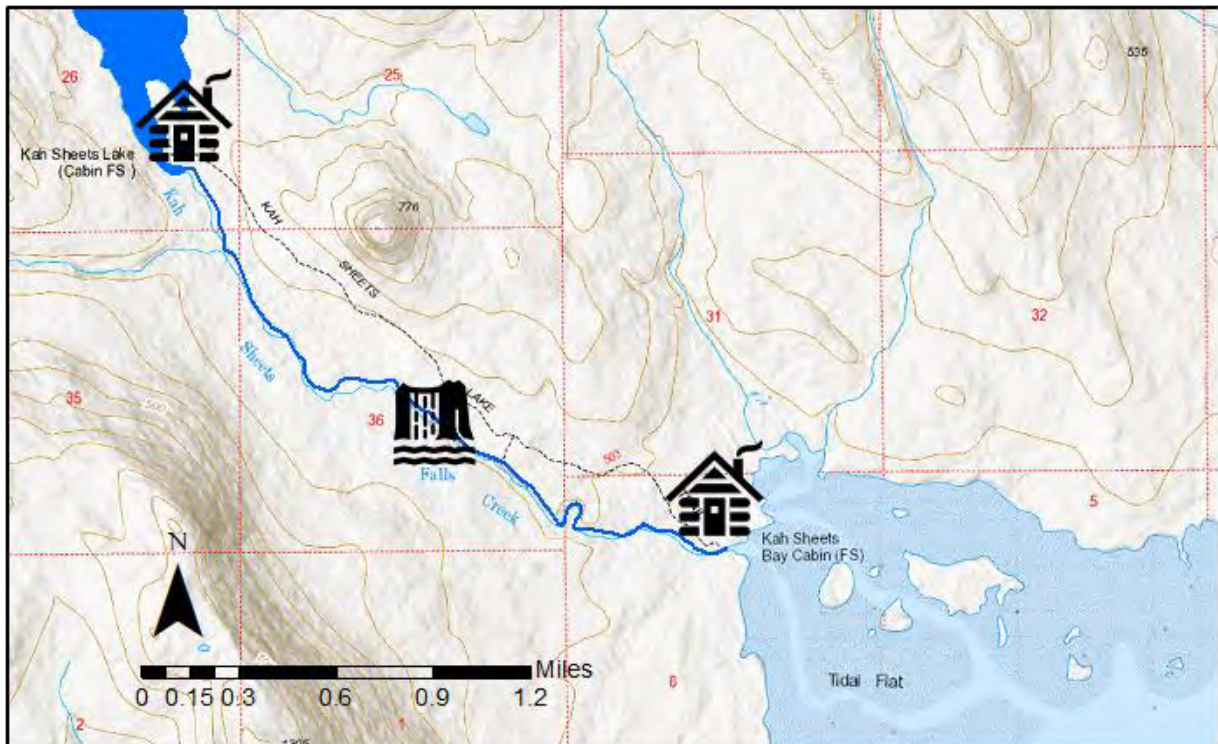


Photo 1. A subsistence user dipnetting salmon at Kah Sheets falls. The small size of the hole and steep cliff walls make it difficult for more than one person to harvest here at once.

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



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



Existing Federal Regulation

There are no existing regulations specific to this exact location.

Proposed Federal Regulation

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

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

Relevant Federal Regulation

§ ____.27(b)

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

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

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

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

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

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

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

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

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

Existing State Regulation

No existing regulation

Relevant State Regulation

5 AAC 01.710 Fishing seasons

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

5 AAC 01.745 Subsistence bag and possession limits; annual limits

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

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

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

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

(i) Red Bay;

(ii) Salmon Bay;

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

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

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

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

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

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

(h) In the Petersburg/Wrangell vicinity:

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

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

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

Extent of Federal Public Lands/Waters

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

Customary and Traditional Use Determinations

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

Regulatory History

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

Current Events Involving the Species

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

Biological Background and Harvest History

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

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

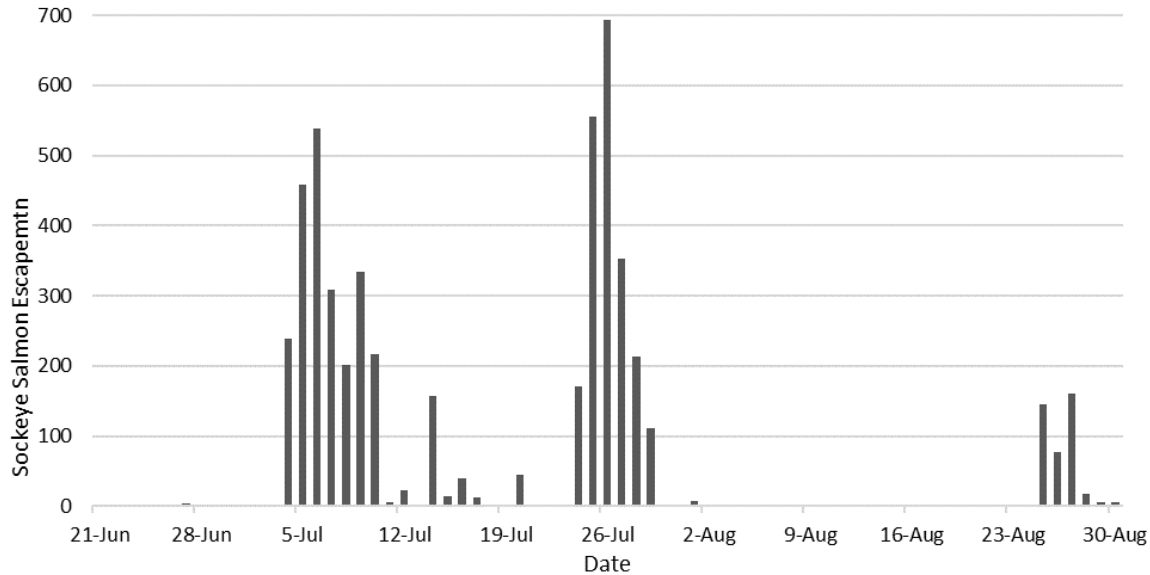


Figure 1. Kah Sheets Creek Sockeye Salmon Weir Count from June to September, 1965 (ADF&G 1965). ADF&G weir data from 1965 show thousands of fish migrating to the lake during July of that year.

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

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

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

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

On average over the last 10 years, 9 Federal Subsistence Salmon harvest reports were returned each year reporting a harvest of 13 to 15 Sockeye Salmon at Kah Sheets with a slightly increasing number of permits over the course of the last decade (**Figure 2**) (USFWS 2022). All harvest reports from Kah Sheets belonged to members of the community of Petersburg. The number of days fished at Kah Sheets per permit averaged 1.2 days per fisher over the last 10 years (**Figure 3**). In other words, subsistence users who harvest Sockeye at Kah Sheets typically only fish one day each year. Sockeye Salmon is the predominant species of fish harvested by subsistence users at Kah Sheets. The average total harvest is 53 fish per year. Over the last four years, though, the average total harvest decreased to 27 fish. The average Sockeye Salmon harvest per permit is 6 fish, with a decreasing trend from 8 fish per permit in 2012 to 4 fish per permit in 2021 (**Figure 4**). The decreasing rate of harvest per permit suggests that subsistence users are experiencing a genuine increase in difficulty obtaining their Sockeye Salmon at Kah Sheets Creek.

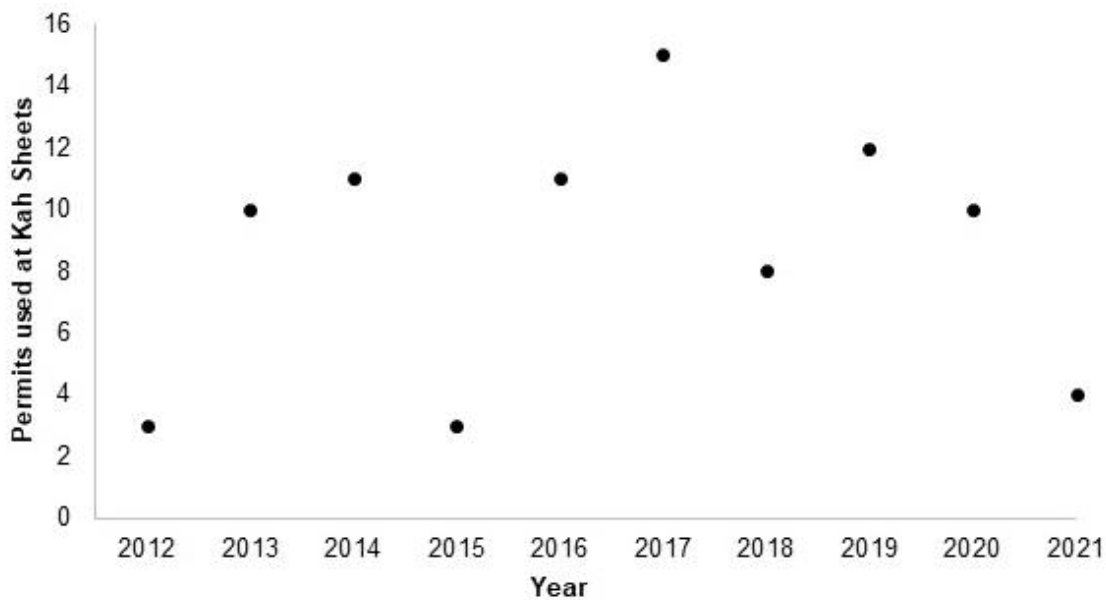


Figure 2. The number of Federally qualified subsistence users reporting harvest at Kah Sheets 2012-2022 has averaged about 9 (range 3-15) (USFWS 2022).

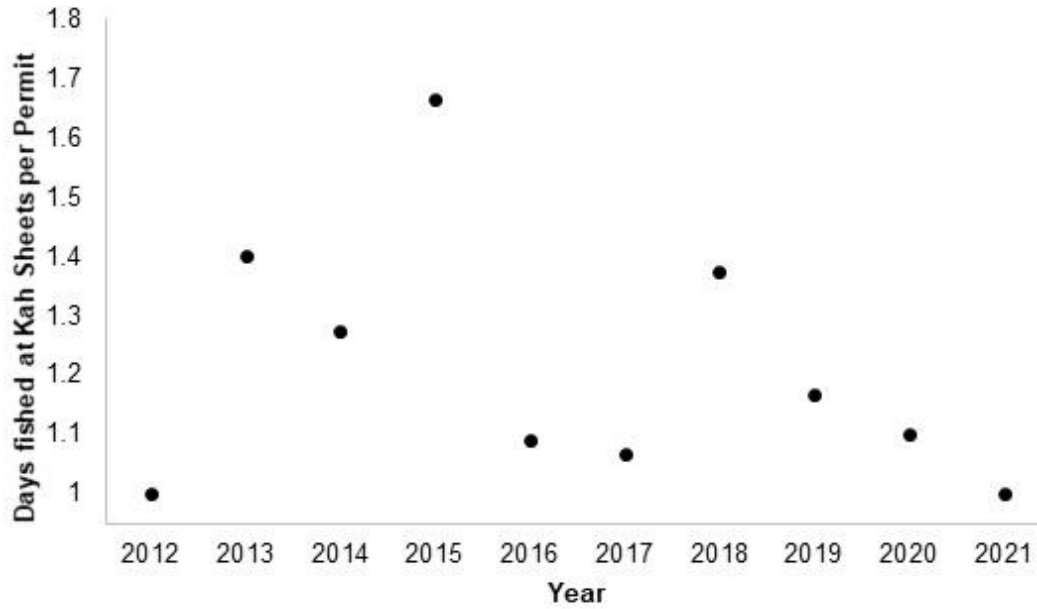


Figure 3. Days fished at Kah Sheets by Federally qualified subsistence users who reported fishing at Kah Sheets 2012-2021 has averaged about 1, with a slight decrease in the last few years (USFWS 2022).

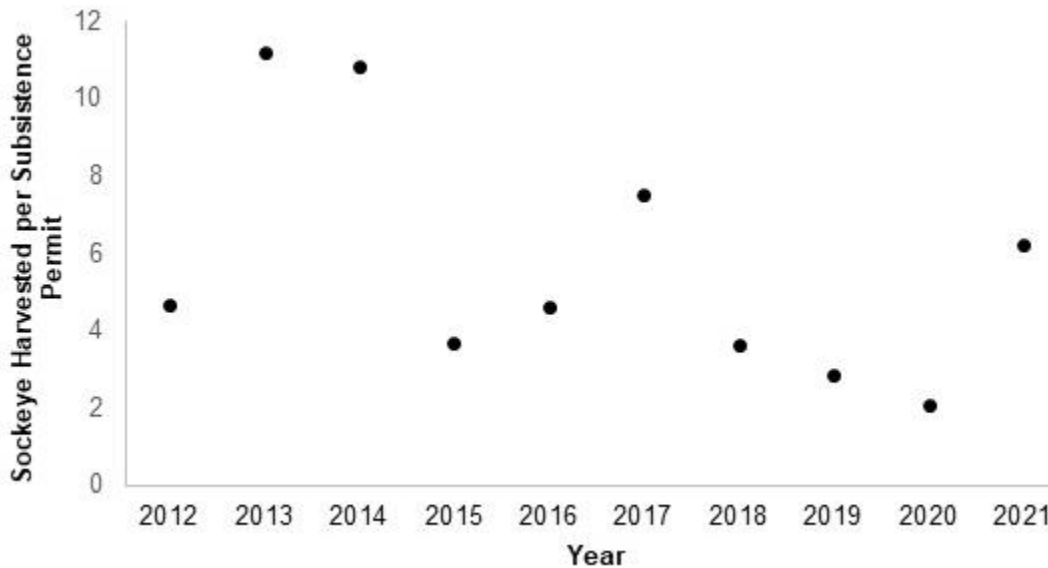


Figure 4. The average Number of Sockeye Salmon harvested by subsistence users from Kah Sheets Creek on Federal subsistence permit FFSE04 2012-2021 has steadily decreased (USFWS 2022).

Cultural Knowledge and Traditional Practices

Community Background

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

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

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

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

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

Community	1960	1970	1980	1990	2000	2010	2020
Petersburg CDP	1,520	2,042	2,821	3,207	3,224	2,948	3,042

Community	1960	1970	1980	1990	2000	2010	2020
Kupreanof City	26	36	47	23	23	27	21
Hobart Bay CDP	0	0	0	187	3	1	1
Petersburg Borough							3,398

Harvest and Use of Salmon

Harvest Surveys

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

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

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

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

Table 3. The harvest and use of salmon for home use by residents of Petersburg in 2000 based on household surveys (n=125, black cell=data not available; ADF&G 2022).

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

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

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

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

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

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

Other Alternative(s) Considered

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

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

(April-May) and Coho Salmon (September-October) without impeding harvest success for subsistence users FQSU targeting Sockeye in July.

Effects of the Proposal

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

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

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

OSM PRELIMINARY CONCLUSION

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

The modification should read:

§ __.27(e)(13)

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

Justification

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

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

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WRITTEN PUBLIC COMMENTS

July 25, 2022

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

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

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

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

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

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

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

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

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

July 26, 2022

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

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

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

2. **FP 23-21 – Closure of Sockeye Salmon in Federal Waters of Kah Sheets Lake and River to “Non-Federally Qualified Subsistence Users”** well justifies an emergency closure priority. This proposal involves visitor cabin use and competition for a depleting salmon stock in a small area. Whether the remote cabin is on U.S.F.S. public use land or connected to state of Alaska private owned property, the opportunity to “take” salmon is equal in both jurisdictions.

What is not equal, is the state of Alaska not limiting, monitoring, or controlling the number/poundage of salmon and crab exporting Alaska daily from coastal communities and villages taken by the commercial visitor industry annually. Whereas, the FSB-state of Alaska dual management of “subsistence” strictly imposes a 6 salmon “take” limit with conditions under the state of Alaska’s sport hunting and fishing commerce-rooted regulations.

Until this imbalanced management can become just and fair for “federally recognized Tribal Members” or a “federally qualified user”, the state of Alaska is literally in non-compliance of federal laws and jurisdictional authority of Alaska’s Federal Subsistence Board of Directors. Any fish and wildlife citations must begin to be routed into federal court for appropriate due process rather than the state of Alaska’s where the sentence is predetermined under their 1959 State Constitution.

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

FCR23-23 Executive Summary	
General Description	FCR23-23 is a routine review of the Federal subsistence salmon fishery closure on the Taku River
Current Regulation	<p>§ __.27(e)(13) Southeast Alaska Area</p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(xix) There is no subsistence fishery for any salmon on the Taku River</i></p> <p style="text-align: center;">***</p>
OSM Preliminary Conclusion	Rescind
Southeast Alaska Subsistence Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	None

FEDERAL FISHERIES DRAFT CLOSURE REVIEW
FCR23-23

Issue

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

Closure Location: Taku River—All Salmon

Current Federal Regulation

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

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

Closure Dates: Year Round

Current State Regulation

5 AAC 01.730. Subsistence fishing permits

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

5 AAC 77.682. Personal use salmon fishery

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

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

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

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

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

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

(h) Salmon may be taken at any time except

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

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

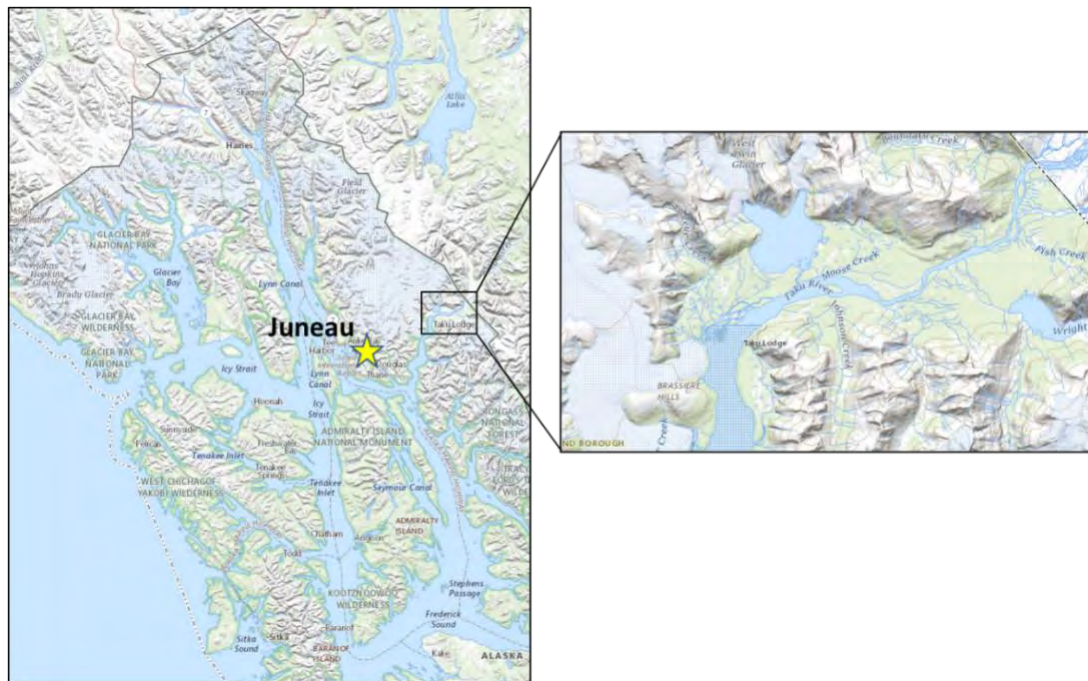
(1) sockeye salmon may not be taken for personal use, except that in the following waters sockeye salmon may be taken with the following possession and annual limits

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

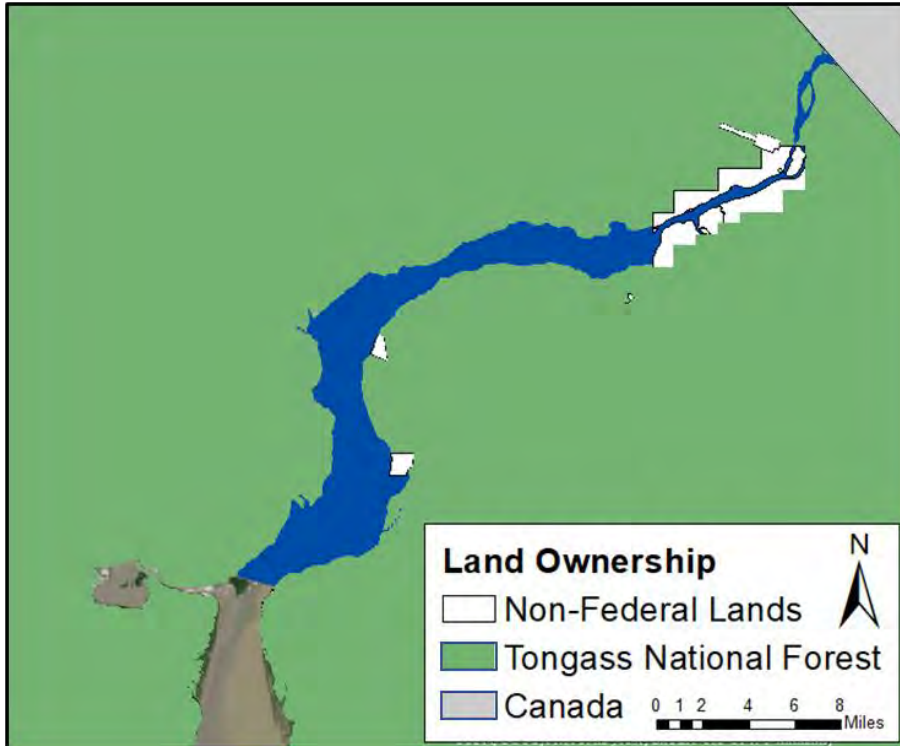
Regulatory Year Initiated: 2002-2003

Extent of Federal Public Lands/Waters

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



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



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

Customary and Traditional Use Determination

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

Regulatory History

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

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

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

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

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

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

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

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

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

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

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

Closure last reviewed

There have been no previous reviews of this closure.

Justification for Original Closure

73 FR 13761

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

Council Recommendation for Original Closure

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

State Recommendation for Original Closure

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

Biological Background

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

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

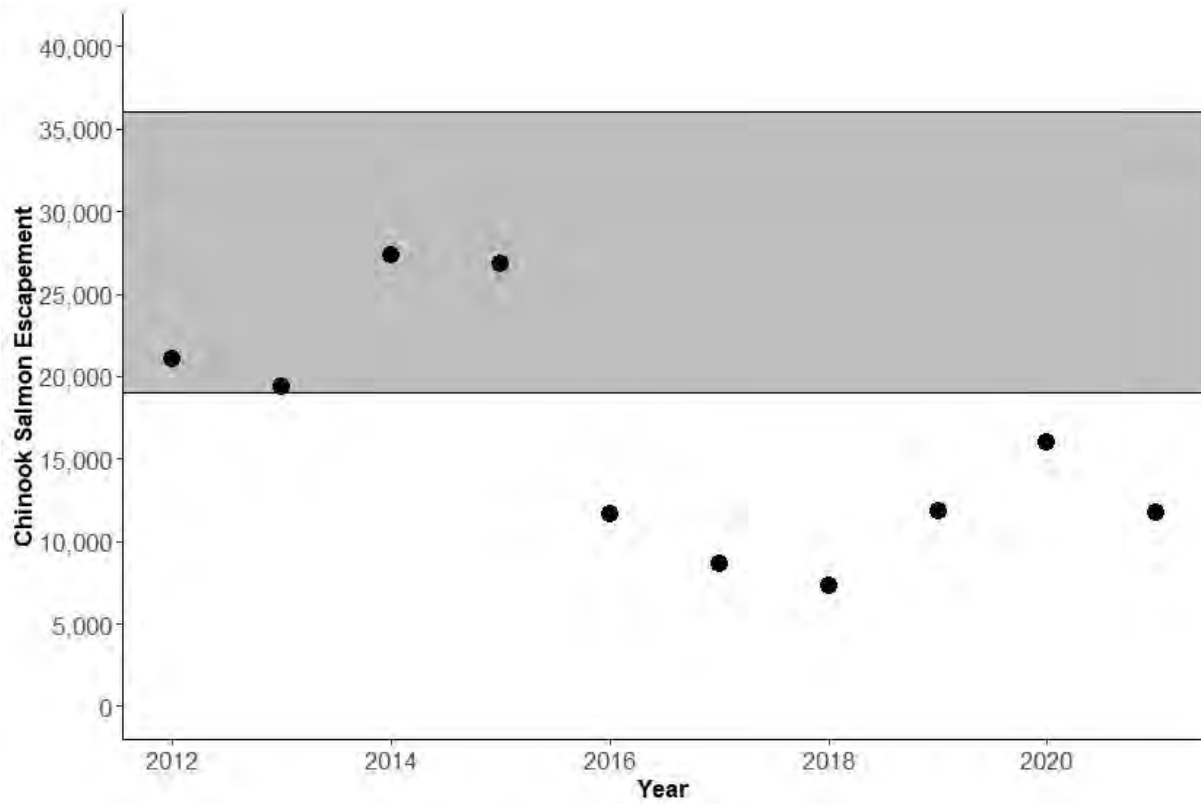


Figure 1. Actual Chinook Salmon escapement in the Taku River 2012-2021. The grey bar represents the escapement goal range (*Transboundary Technical Committee, 2022*).

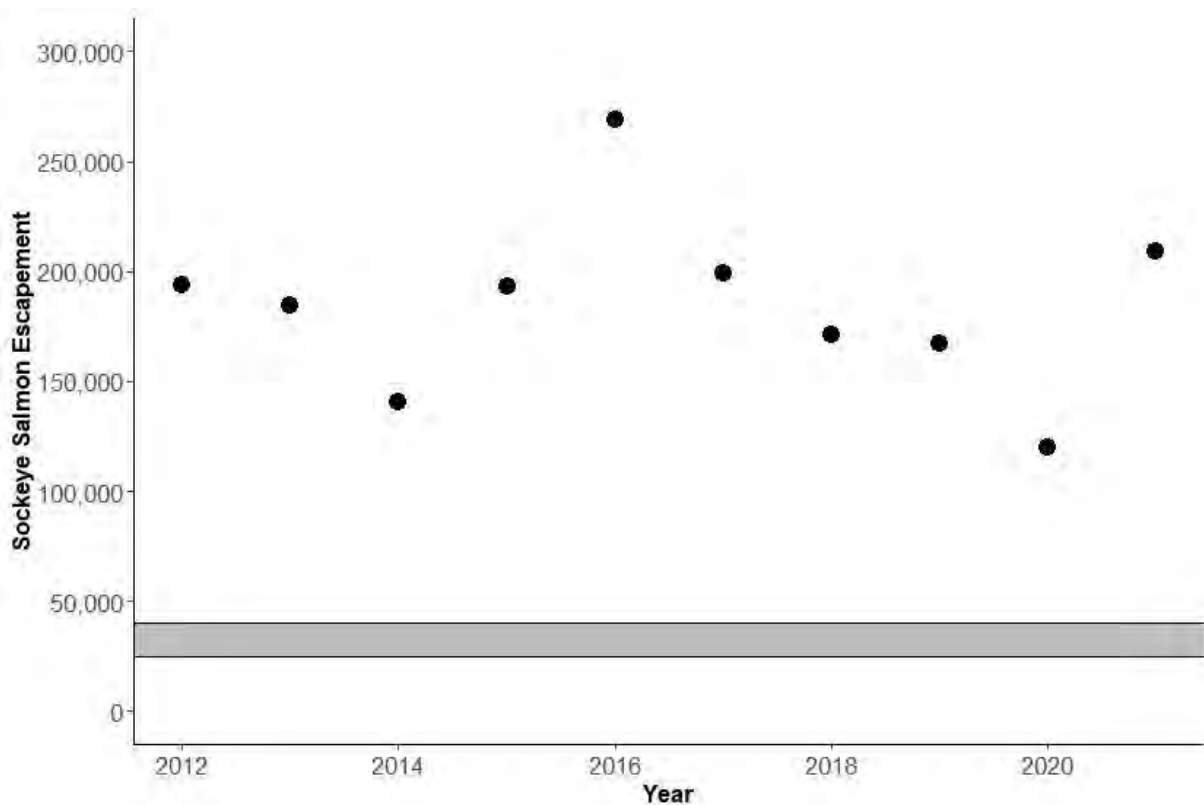


Figure 2. Actual escapement of Sockeye Salmon in the Taku River, 2012-2021. The grey bar represents the escapement goal range (Transboundary Technical Committee, 2022).

Cultural Knowledge and Traditional Practices

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

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

Harvest History

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

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

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

Effects

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

OSM PRELIMINARY CONCLUSION:

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

The regulations should read:

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

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

Justification

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

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

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FCR23–24 Executive Summary	
General Description	FCR23-24 is a routine review of the closure of Neva Lake, Neva Creek, and South Creek to the harvest of Sockeye Salmon by non-Federally qualified users.
Current Regulation	<p>§ __.27(e)(13) <i>Southeastern Alaska Area</i></p> <p style="text-align: center;">* * *</p> <p style="text-align: center;"><i>(xxii) Only Federally qualified subsistence users may harvest sockeye salmon in Neva Lake, Neva Creek, and South Creek.</i></p>
OSM Preliminary Conclusion	Rescind
Southeast Alaska Subsistence Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW
FCR23-24

Issue

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

It is the Board’s policy that Federal public lands and waters should be reopened as soon as practicable once the conditions that originally justified the closure have changed to such an extent that the closure is no longer necessary. The purpose of this closure review is to determine if the closure is still warranted and to ensure the closure does not remain in place longer than necessary.

Closure Location: Neva Lake, Neva Creek, and South Creek—Sockeye Salmon

Current Federal Regulation

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

* * *

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

Closure Dates: Year-round

Current State Regulation

5 AAC 01.745 Subsistence bag and possession limits; annual limits

* * *

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

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

* * *

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

* * *

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

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

* * *

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

* * *

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

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

* * *

Regulatory Year Initiated: 2019

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. All fresh waters in Neva Lake and the Neva Creek area are within the exterior boundaries of the Tongass National Forest and are considered Federal public waters for the purposes of Federal subsistence fisheries management. Neva Lake, located near the community of Excursion Inlet, drains into Neva Creek, which flows into South Creek before emptying into the marine waters of Excursion Inlet (**Figures 1 and 2**).



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



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

Customary and Traditional Use Determination

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

Regulatory History

Federal Regulatory History

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

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

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

State Regulatory History

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

Closure last reviewed

There have been no previous reviews of this closure.

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

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

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

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

Council Recommendation for Original Closure

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

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

State Recommendation for Original Closure

ADF&G provided the following comment on the original closure proposal:

ADF&G **OPPOSES** this proposal. It would exclude non-federally qualified Alaska residents from participating in a subsistence fishery that they may have participated in historically and would exclude sport anglers from targeting sockeye salmon. The department recommends the proponent participate in the Board of Fisheries process if he wishes to amend regulations for sockeye salmon in the Neva Lake/Neva Creek and South Creek watershed.

Biological Background

Neva Lake is a relatively small 64.5 acre (26.1 ha) lake. Neva Creek, the outlet stream, is a tributary to South Creek, which empties into Excursion Inlet immediately south of the Ocean Beauty Seafood processing plant. A Fishery Resource Monitoring Program-funded weir project has estimated the annual escapement of Sockeye Salmon into Neva Lake from 2002 to 2021 (Musslewhite 2022).

Sockeye Salmon escapements have trended downward over the years of escapement monitoring but have generally improved since a low point in 2015 (**Figure 3**).



Figure 3. Escapement estimates of Neva Lake Sockeye Salmon, 2002-2021.

Most Sockeye Salmon smolts out-migrate after spending a year rearing in the lake, and there is a good distribution of one-, two-, or three-ocean age fish in the escapements. Adult Sockeye Salmon enter the lake from June through October. The earlier running fish spawn in the main inlet stream in August and September and the later running fish spawn on lake beaches from mid-September to December.

Habitat

The inlet stream to Neva Lake has been used as a water source for the Ocean Beauty seafood processing plant in Excursion Inlet. The inlet stream is a primary spawning area, and water withdrawals have likely adversely affected the quantity and temperature of water in the stream. Forest Service personnel have documented pre-spawn mortality of spawning Sockeye Salmon in the inlet stream during warm, dry periods. Ocean Beauty has developed an alternative water intake to draw water from South Creek instead, which has appeared to alleviate impacts on the inlet stream.

Cultural Knowledge and Traditional Practices

The Excursion Inlet/Neva area is in the traditional subsistence fishing area used by the Huna Tlingit (Goldschmidt and Haas 1946, 1998; Schroeder and Kookesh 1990). It is also thought to have been the traditional home of a Tlingit clan of the Raven moiety known as the Kuyeikeidi or the “People of Kuyeik (Excursion Inlet)” (Thornton 1999). It is unclear if this clan dissipated or if it transformed into the Lukaaxadi clan of Haines (Thornton 1999). Another clan from Glacier Bay, the Wooshkeetan, is thought to have established a settlement in Excursion Inlet circa 1700 when the glacier rapidly advanced and forced the resettlement of several groups (Crowell and Howell 2013). This village was known as Weitadi Noow (the young woman in seclusion).

Several published documents point to archaeological records and cultural accounts of historic occupation and use of the Excursion Inlet area. A pool in the lower part of Neva Creek is a traditional site for taking Sockeye Salmon with a gaff (Langdon 2006). Smythe (1988) reported that the area was important for trapping in the early to mid-1900s, especially as winter income for local salmon fishermen.

The modern settlement at Excursion Inlet began with the construction of a salmon cannery at the mouth of the inlet in 1908 (Ocean Beauty Seafoods 2018). The name was first reported in the 1943 Coast Pilot, and it served as a resupply point for the Aleutian Campaign during World War II (ADCCED 2022). The population has increased from 12 people in 2010 to 40 in 2020 (ADCCED 2022).

Land ownership is complicated in the vicinity of the Neva Creek watershed in part due to the former military use of the area (Ratner and Dizard 2006). Ocean Beauty Seafoods operates in some of the former military buildings and tidelands. Neva Lake and the outlet creek are within the exterior boundaries of the Tongass National Forest, but on lands that were transferred to the Borough of Haines in 2019 (Ratner and Dizard 2006).

As recently as 2012 Excursion Inlet was reported as an important salmon fishing area by residents of both Haines and Hoonah (Sill and Koster, 2017). The use of Neva Lake and South Creek was specifically mentioned by key respondents of an earlier study in 2003 and some residents of Hoonah reported that they are entirely dependent on Neva Creek for their subsistence salmon needs (Ratner and Dizard 2006). Several respondents grew up in the Excursion Inlet, learned to fish at Neva Creek, and continue to fish in the same holes that their ancestors did (Ratner and Dizard 2006).

Some Hoonah respondents indicated that they tend to fish in the Neva area when the Hoktaheen area is closed to salmon fishing. Others used one or the other site exclusively or, both in the same day:

On occasion, harvesters have fished Neva/South Creek very early in the morning, about four or five o'clock and then gone to Hoktaheen on the same day when they were unsuccessful at Neva / South Creek. Other respondents used one site exclusively for sockeye salmon. One respondent has fished only at the Neva Creek watershed his entire life, except for six years when he was in the Navy. (Ratner and Dizard 2006:16)

Other Hoonah respondents noted that they tend to choose Hoktaheen fishing sites over Neva/South Creek due to lower possession limits at Neva Creek (Ratner and Dizard 2006). According to the study, most Hoonah salmon fishermen that historically fished at Neva Creek switched to Hoktaheen when regulations reduced the harvest limit to ten Sockeye Salmon per household at Neva (before 2002). Based on conversations with local residents and cabin users, there is a recent informal agreement among community members to forgo harvesting Neva Sockeye Salmon due to the perception of a conservation concern.

Fishers traveling to Neva/South Creek from Hoonah frequently return home the same evening (Ratner and Dizard 2006). Ratner and Dizard (2006) reported that many Hoonah respondents prefer beach seines over gillnets at Neva Creek. The latter are problematic in strong tidal currents at the mouth of the stream where there is debris and large rocks. Despite the preference, some fishers have switched to gillnets because they are lighter when wet and make the crossing of Icy Strait safer and less costly. At least one respondent reported using traditional gaffs exclusively in Neva Creek.

It is believed that the actual number of Sockeye Salmon harvested for home use from Neva/South Creek by residents of Hoonah is underreported due in part to the individual household focus of fishing permits which do not account for the widespread sharing and distribution of salmon resources throughout the community (Ratner and Dizard 2006). There are a relatively small group of high harvesters in the community who provide Sockeye Salmon for many of its residents; these regularly provide for 7–14 households, elders, single mothers, and for ceremonial and cultural events (Ratner and Dizard 2006).

User Conflict

There is some indication of user conflict regarding salmon fishing in the Neva Lake / South Creek area. In Ratner and Dizard (2006) several respondents noted avoidance of the Neva Creek area because of competition among user groups. One respondent stated the following when asked about fishing locations: “Usually Hoktaheen, you have too much hassle going over to Neva Creek anymore or Excursion Inlet. They have tourists over there; they’ll watch you. A lot of cannery people over there getting fish. They are being over fished there pretty much” (Ratner and Dizard 2006:16).

Contentions have also been documented regarding monitoring and enforcement. Ratner and Dizard (2006) noted that some Hoonah residents felt that their subsistence harvests are monitored and restricted much more closely than non-resident clients of the Excursion Inlet lodges.

User conflicts in the area are also known regarding contaminants and water withdrawals. The military abandoned hazardous waste in the area and during the 1940s the creek was believed to be unsafe and elders warned their families not to eat the salmon (Ratner and Dizard 2006). Though local perceptions of water and fish safety appear to have improved over time, withdrawals from Neva Creek for the operations at the Ocean Beauty Seafoods facility has also been noted as concerning (Ratner and Dizard 2006). The water system was originally constructed in the 1940s and the water right was issued to Ocean Beauty Seafoods by the Alaska Department of Natural Resources in 1970, with no documented consideration of fisheries (Ratner and Dizard 2006).

Harvest History

Sockeye Salmon returning to Neva Lake are targeted in both subsistence and sport fisheries occurring in the Neva/South Creek drainage and the marine waters of Excursion Inlet, as well as incidentally in mixed-stocked commercial fisheries in Icy Strait and Excursion Inlet. Subsistence fishing occurs in marine water at the mouth of South Creek, usually with beach seines or gillnets. In freshwater, salmon are taken with gaffs, dip nets, or spears. Sport fishing occurs both in marine waters and in fresh water.

The community of Excursion Inlet is home to a seafood processing plant, a number of seasonal recreational cabins, and a fishing lodge. The lodge specializes in “unguided anglers,” and provides clients with boats, equipment and local knowledge, but does not typically provide a fishing guide.

Sport and commercial fisheries

The Alaska Department of Fish and Game (ADF&G) Division of Sport Fish estimates sport effort, catch, and harvest from an annual statewide mail survey (Jennings et. al. 2015). This survey is sent to a portion of both resident and non-resident fishing license holders. In recent years, an average of less than one surveyed angler reported fishing at Neva or South Creeks, which does not provide enough data to make a statistically valid estimate of effort or catch. However, sport harvest of Neva Lake Sockeye Salmon is probably quite low (Teske 2018, pers. comm.).

Charter boat operators and fishing guides are required to record all salmon caught in the ADF&G logbook program. However, the lodge in Excursion Inlet has anglers that fish in freshwater and are unguided, so the number of Sockeye Salmon caught by clients of the lodge would be estimated from the Statewide Harvest Survey. Guided freshwater effort and harvest in the area is low. Freshwater logbook data (2006–2016) for all freshwater drainages of Glacier Bay, Cross Sound, and Icy Strait areas shows that average combined freshwater effort is 477 angler days with an average catch of 40 Sockeye Salmon and an average harvest of just over one Sockeye Salmon in the guided fishery (Teske 2018, pers. comm.).

The commercial harvest of Neva Sockeye Salmon is unknown and probably negligible in years when there is little or no purse seine fishing in the northern half of District 14B or 14C. Between 2004 and 2017, the commercial purse seine catch of Sockeye Salmon in Subdistrict 114-80 (Excursion Inlet) has ranged from 53 to 2,968 fish, with no catch reported in eight of the fourteen years (ADF&G 2018).

Subsistence Fisheries

Subsistence fishing at the Neva/South Creek system takes place both in freshwater and in marine waters at the mouth of South Creek. Most subsistence fishing is done under the State permit system, though some harvest occurs using Federal permits (**Table 1; Table 2**). The amount of unreported harvest is unknown, as only limited harvest monitoring has occurred at the Neva Creek area.

Residents of Icy Strait communities (primarily Hoonah, Gustavus, and Excursion Inlet) and Angoon are the principal Federally qualified subsistence users of Neva Lake Sockeye Salmon, while a

substantial portion of the harvest goes to non-Federally qualified residents of the Juneau area. The reported harvest of Sockeye Salmon by all users has declined sharply since 2015. Almost no harvest of Neva Lake Sockeye Salmon was reported on permits in 2019 and 2020.

Table 1. Harvest of salmon from Neva Creek as reported on State permits, 1985-2020. State subsistence data from ADF&G February 2022.

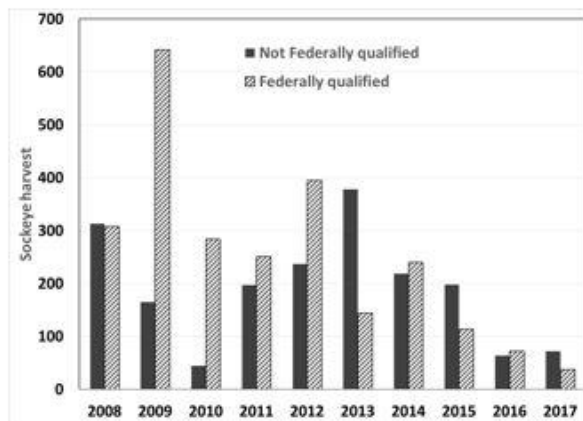
Year	Permits Fished	Chinook	Sockeye	Coho	Pink	Chum
1985	0	0	0	0	0	0
1986	0	0	0	0	0	0
1987	0	0	0	0	0	0
1988	0	0	0	0	0	0
1989	0	0	0	0	0	0
1990	1	0	25	0	0	0
1991	2	0	40	0	0	0
1992	16	0	348	0	0	14
1993	8	0	127	0	0	201
1994	5	0	151	0	52	0
1995	6	0	90	0	247	28
1996	19	0	411	0	216	872
1997	9	0	126	5	13	1156
1998	4	0	25	0	89	50
1999	5	0	50	0	46	73
2000	22	0	197	0	23	53
2001	7	0	157	30	15	23
2002	6	0	36	0	0	0
2003	6	0	87	12	0	0
2004	23	0	397	0	6	3
2005	14	0	276	0	23	10
2006	11	0	140	0	23	12
2007	11	0	219	31	0	0
2008	26	0	601	113	5	14
2009	39	0	780	34	31	8
2010	26	1	329	29	6	1
2011	31	0	448	110	59	1
2012	38	0	607	42	66	23
2013	39		510			
2014	36	0	459	66	4	4
2015	40	0	312	58	195	2
2016	24	0	136	23	0	3
2017	18	0	110	37	40	0
2018	14	0	103	2	0	0
2019	0	0	0	0	0	0
2020	0	0	0	0	0	0

Table 2. Harvest of salmon from Neva Creek as reported on Federal subsistence permits, 2002-2021.

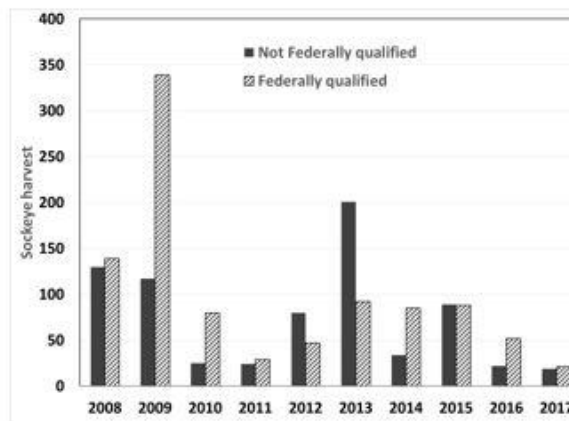
Year	Permits Fished	Sockeye	Coho
2002	0	0	0
2003	0	0	0
2004	0	0	0
2005	1	34	0
2006	0	0	0
2007	2	50	36
2008	0	0	0
2009	0	0	0
2010	1	13	2
2011	1	10	10
2012	1	20	18
2013	1	21	36
2014	2	6	32
2015	0	0	0
2016	2	8	0
2017	1	0	10
2018	2	10	0
2019	1	1	0
2020	0	0	0
2021	1	7	0

Figure 4 illustrates the recent reported harvest of Sockeye Salmon by both Federally qualified and non-Federally qualified users (based on residence community) in each water type as determined by the gear type. From 2008 to 2017, an average of 74 Sockeye Salmon were harvested annually in fresh water by non-Federally qualified users, out of a total average annual harvest of 438. In 2016 and 2017, only about 20 Sockeye Salmon were harvested each year by non-Federally qualified users using freshwater gear types, part of a trend towards reduced harvests among all gear types and users.

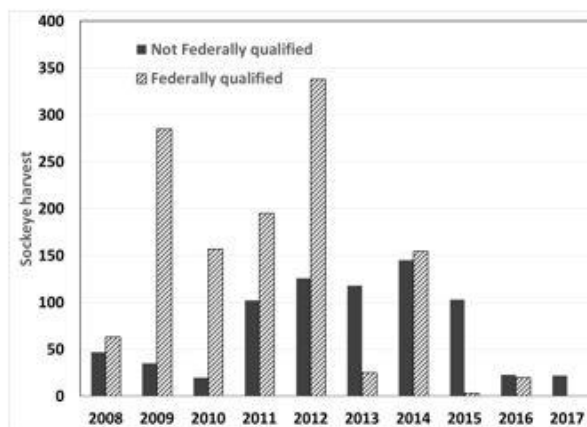
(A) Total harvest (all gear types)



(B) Freshwater harvest (gaff, dip net spear)



(C) Saltwater harvest (beach seine, gillnet)



(D) Unknown harvest (Cast net, hook and line, unspecified)

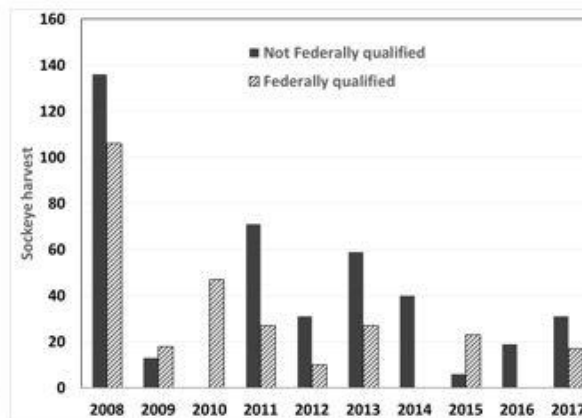


Figure 4. Subsistence harvest of Sockeye Salmon from Neva/South Creek by subsistence user type and location of harvest as inferred by gear type, as reported on State permits, 2008–2017.

Effects

The closure was intended to protect subsistence uses of Neva Lake Sockeye Salmon by reducing harvest by non-Federally qualified users. While the closure has probably curtailed some harvest of Neva Lake Sockeye Salmon in Federal public waters (i.e. freshwater), the harvest limit reduction to ten fish appears to have played a larger role in reducing subsistence use of the resource. Since the harvest limit reduction in 2016, reported harvest has declined rapidly and has fallen to zero in 2020 and 2021. While the abundance of Neva Sockeye has improved, the restrictive harvest limit makes harvesting effort at Neva a less attractive option and reinforces local perceptions of a conservation concern. The closure to non-Federally qualified subsistence users may also reinforce the perception of a conservation concern and further discourage use even by Federally qualified users.

The closure was also intended to address a history of user conflicts in the area, mostly between subsistence users and non-resident lodge guests and processing plant workers. The effectiveness of the

closure in alleviating these conflicts is unclear. For the past few years, the Ocean Beauty plant has been operating in a minimal capacity due to COVID-19 restrictions and a shift to other processing plants. The number of lodge guests and other visitors has also likely been reduced due to COVID-19. Coupled with the sharp drop in subsistence use, the likelihood of user conflict has been reduced for reasons other than the closure.

OSM PRELIMINARY CONCLUSION

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

Justification

Under the Board closure policy and Section 815(3) of ANILCA, a closure to nonsubsistence uses may only be used to conserve healthy populations of fish and wildlife, for the reasons set forth in Section 816, to continue subsistence uses of those populations, or pursuant to other applicable law. In the case of Neva Lake Sockeye Salmon, ongoing monitoring has shown that the population is at healthy levels after increasing from a low point in 2015. However, reported subsistence use of the population has fallen to zero over the past few years. The drop in subsistence use is more likely due to a perception of low abundance and a restrictive harvest limit than competition from non-Federally qualified users of the resource. The closure likely discourages subsistence use by contributing to the perception of a conservation concern, while doing relatively little to prevent competition. Thus, the closure is not necessary to continue subsistence uses of Neva Lake Sockeye Salmon.

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NDP25-01 Executive Summary	
General Description	Proposal NDP25-01 requests Ketchikan Area be considered a rural community. This is a threshold requirements assessment of the proposal. <i>Submitted by Ketchikan Indian Community of Ketchikan.</i>
Proposed Regulation	Ketchikan Area is considered rural
OSM Conclusion	NDP25-01 meets all threshold requirements
Southeast Alaska Subsistence Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	1 Support

NONRURAL DETERMINATION PROPOSAL DNP25-01 KETCHIKAN THRESHOLD REQUIREMENTS ASSESSMENT

ISSUE

Nonrural Determination Proposal NDP25-01, submitted by the Ketchikan Indian Community of Ketchikan, is a request to rescind the nonrural determination for Ketchikan Area, which includes City of Ketchikan, Revillagegado Island, Pennock Island, Gravina Island, the southern proportion of Cleveland Peninsula, and the surrounding waters in the area. The area around the community of Saxman is already considered rural, as is the area surrounding the rest of the Ketchikan area.

PRELIMINARY ASSESSMENT OF THRESHOLD REQUIREMENTS

When rescinding a nonrural determination there are four requirements that the Federal Subsistence Board (Board) uses to ensure a proposal has met the threshold to proceed with an analysis.

Threshold Requirement 1. “The proposal is based upon information not previously considered by the Board.”

The Ketchikan Area has maintained nonrural status since Senator Report 96-413 defined nonrural communities in 1980 (55 Fed. Reg. 154. 40897-240898 [October 5, 1990]). The Ketchikan Area remained nonrural when Federal Subsistence Management Program assumed its designation from the State of Alaska in 1990. The Board then determined that the Ketchikan Area was one of ten nonrural communities in 1991 (56 FR 238 [January 3, 1991]). In 2007, the Board aggregated Saxman with the nonrural Ketchikan Area (72 Fed. Reg. 87. 25688-25695 [May 7, 2007]). Ketchikan’s nonrural status was based on its population size and nonrural characteristics, including infrastructure and services, diversity economy, and low levels of reported subsistence harvest (72 Fed. Reg. 87. 25695 [May 7, 2007]). In 2015, the aggregation of Saxman and Ketchikan was rescinded (80 Fed. Reg. 87. 68245-68247 [November 4, 2015]), but the decision did not affect the nonrural status of the Ketchikan Area.

In 2015, the Secretaries of Agriculture and the Interior revised the regulations governing the rural determination process for the Federal Subsistence Management Program (80 Fed. Reg. 213. 68249-68252 [November 4, 2015]). The Secretaries removed specific guidelines, including requirements regarding population data. The new process enabled the Board to be more flexible in making decisions, to consider regional differences found throughout the State, and to receive more input from the Subsistence Regional Advisory Councils (Councils) and Federally recognized Tribes of Alaska.

Ketchikan’s nonrural status has not been considered by the Board under these new regulations. Furthermore, the proponent claims that characteristics of the Ketchikan Area have changed since its previous nonrural determination, including a reduced population level, less services, and a less reliable food supply chain. Likewise, the proponent reports that the community of the Ketchikan Area have levels of subsistence resource harvesting and sharing similar to those of nearby rural communities, particularly

with less grocery stores and a less reliable food supply chain in the area. Lastly, in March 2022, the Ketchikan Indian Community Tribal Government declared that the Ketchikan Indian Community's territory is rural.

OSM Conclusion: Threshold met

Threshold Requirement 2. “The proposal demonstrates that the information used and interpreted by the Board in designating the community as nonrural has changed since the original determination was made.”

Under the former Rural Determination process, the community of Ketchikan was determined nonrural because its population level, its high diversity of services, and the estimated per capita subsistence harvest level and use by its residents were consistent with those of nonrural communities. The proponent states that there have been changes in Ketchikan since previous determinations including a smaller population, less grocery stores and other services, inflation of fuel and non-traditional food prices, and less-reliability in the non-traditional food supply chain. Additionally, the proponent claims that other Federal agencies, including the Department of Agriculture, have expanded their definitions of rural, and that Ketchikan qualifies as rural under these definitions.

OSM Conclusion: Threshold met

Threshold Requirement 3. “The proposal provides substantive rationale and supporting evidence for determining the rural status of a community or area that takes into consideration the unique qualities of the region.”

The proponent provided a clear rationale for why the Ketchikan Area should be considered rural and identified the unique qualities of the region that apply to its rural nature. Specifically, the proponent explained that Ketchikan is inaccessible by the road system from the rest of the state of Alaska and the country, has limited access to non-traditional foods that can be purchased through stores, has an unreliable supply chain for importing non-traditional foods that depends on privately-owned barges, has limited access to hospitals and other services, has a high reliance on traditional foods in the area, and has active food sharing and trading networks among its community members that are consistent with those of nearby rural communities such as Saxman, Metlakatla, and Prince of Wales.

OSM Conclusion: Threshold met

Threshold Requirement 4. “The proposal provides substantive information that supports the provided rationale that a community or area is rural instead of nonrural.”

The proponent provided substantive information beyond for why the Ketchikan Area should be considered rural. The information given included community boundaries, demographics, services, subsistence harvest practices and resource sharing, and declaration by the Ketchikan Indian Community Tribal Government that Ketchikan Indian Community is a rural territory.

OSM Conclusion: Threshold met

WRITTEN PUBLIC COMMENTS



From the Office of Trixie Bennett, President

July 26, 2022

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

Re: Proposal NDP25-01 consideration by the Southeast Alaska Regional Advisory Council

To Whom it May Concern,

As President of Ketchikan Indian Community, I wish to express our sovereign support for the requested Nonrural Determination (NDP25-01) outlined on page 36 of the 2023-2025 Fisheries Proposal Book on behalf of the Tribal citizens of Ketchikan Indian Community, a sovereign nation. As an official demonstration of Tribal Council's belief that Ketchikan fits the criteria for rural status, on March 21, 2021, our governing body passed resolution KIC 22-14 declaring Ketchikan to be rural (*see attached*).

For the many reasons outlined both in Resolution KIC 22-14 and Proposal NDP25-01, we strongly encourage the members of Southeast Alaska Subsistence Regional Advisory Council to vote in support of Ketchikan Indian Community's application for rural status designation for the Ketchikan area. By doing so, enhanced access to traditional food sources by the citizens of our Tribe and community will result in many positive outcomes including:


1. Personal dietary sustainability.
2. Reduced risk of dietary related illness.
3. Lowered pressure on individuals' finances.
4. Increased mental health benefits from getting outdoors to harvest.
5. Future generations will learn how to rely on themselves for traditional food supplies.


I implore the Southeast Alaska Subsistence Regional Subsistence Advisory Council to vote in the affirmative on this proposal, thus giving the Federal Subsistence Board the opportunity to pursue a deep dive into the analysis of our community.


Thank you for your time and consideration on this important matter. The impact of this decision will have profound outcomes for everyone that lives on our island.

Sincerely,

Trixie Bennett 
Trixie Bennett, President

 907.228.4900

 kictribe.org

 2960 Tongass Avenue, Ketchikan, Alaska 99901



RESOLUTION: KIC 22-14

TITLE: DECLARATION OF KETCHIKAN INDIAN COMMUNITY'S JURISDICTION AND TERRITORY AS RURAL.

WHEREAS, the Ketchikan Indian Community ("KIC" or the "Tribe"), is a federally recognized Tribal government organized under a Constitution and Bylaws (collectively, the "Constitution") ratified on October 18, 2017, and previously organized under a Constitution and Bylaws ratified on January 16, 1979, and previously organized under a Constitution and Bylaws ratified on January 27, 1940, in each instance pursuant to Section 16 of the Indian Reorganization Act; and

WHEREAS, the KIC Tribal Council (the "Tribal Council") is the governing body of the representative Tribal Government of the Tribe; and

WHEREAS, KIC is the Tribal Government entity that represents and serves over 6,300 Tribal Citizens in which KIC Tribal Citizens are of Alaskan Native descent and primarily of Tlingit, Haida, and Tsimshian origin; and

WHEREAS, the Indian relocation act, and Indian Removal policy encouraged Native American people and Alaska Natives to leave their ancestral homelands to assimilate to the general population of American in the name of the United States Manifest Destiny; and

WHEREAS, Native Americans and Alaska Natives have experienced detrimental trauma, eradication and genocide from the United States laws, acts, policies and statehood and still to this day our Native people are on a healing journey from those traumas; and

WHEREAS, Native Americans and Alaska Natives were forced into and to abide by a law called the Indian Reorganization act, in which this act was

created to keep Native Americans off lands that the non-native people wish to settle; and

WHEREAS, the Federal Government and Alaska Statehood formed ANILCA, and ANCSA in an effort to address long standing Alaska Native land claims and native rights to hunt, fish, and gather on Alaska lands and waters; and

WHEREAS, Alaska native peoples have never conveyed or conceded or officially transferred our homelands, and still hunt, fish, gather and govern the lands and waters as our native people have done since the beginning of time; and

WHEREAS, the Ketchikan Indian Community and its Tribal Citizens within the jurisdiction of Ketchikan, Alaska (Ketchikan Gateway Borough), is made up of (*defined in KIC's Amended and Restated Constitution and Bylaws October, 18th, 2017; ARTICLE II-TERRITORY AND JURISDICTION- SEC. (1) TERRITORY*); and

WHEREAS, ANILCA and federal subsistence rules were initiated and amended to protect the traditional subsistence and native fishing, hunting, and gathering rights for Alaska Natives and all residents of Alaska residing in "rural" designated areas; and

WHEREAS, The Federal Subsistence Board and the U.S. Fish and Wildlife Service designated the area within the Ketchikan Gateway Borough as "non-rural" despite its clear, historic, and well-accepted status as a rural area, and despite Ketchikan's designation as a rural area by multiple other federal departments including the USDA and the US Census Bureau; and

WHEREAS, the Federal Subsistence Board's current designation of Ketchikan as "non-rural" jeopardizes the subsistence needs of Native Alaskan's and other residents who live in our area; and


NOW THEREFORE BE IT RESOLVED,

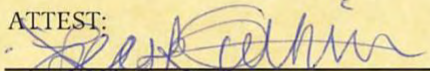
that as a Federally Recognized Tribe which was established under the Indian Reorganization Act, KIC hereby declares Ketchikan Indian Community's territory and jurisdiction a rural area; and

BE IT FURTHER RESOLVED, the Ketchikan Indian Community and as long as KIC's Tribal Citizens are in existence, KIC will continue to combat and defend our inherent rights to fish, hunt, gather and govern the lands and waters within KIC jurisdiction.

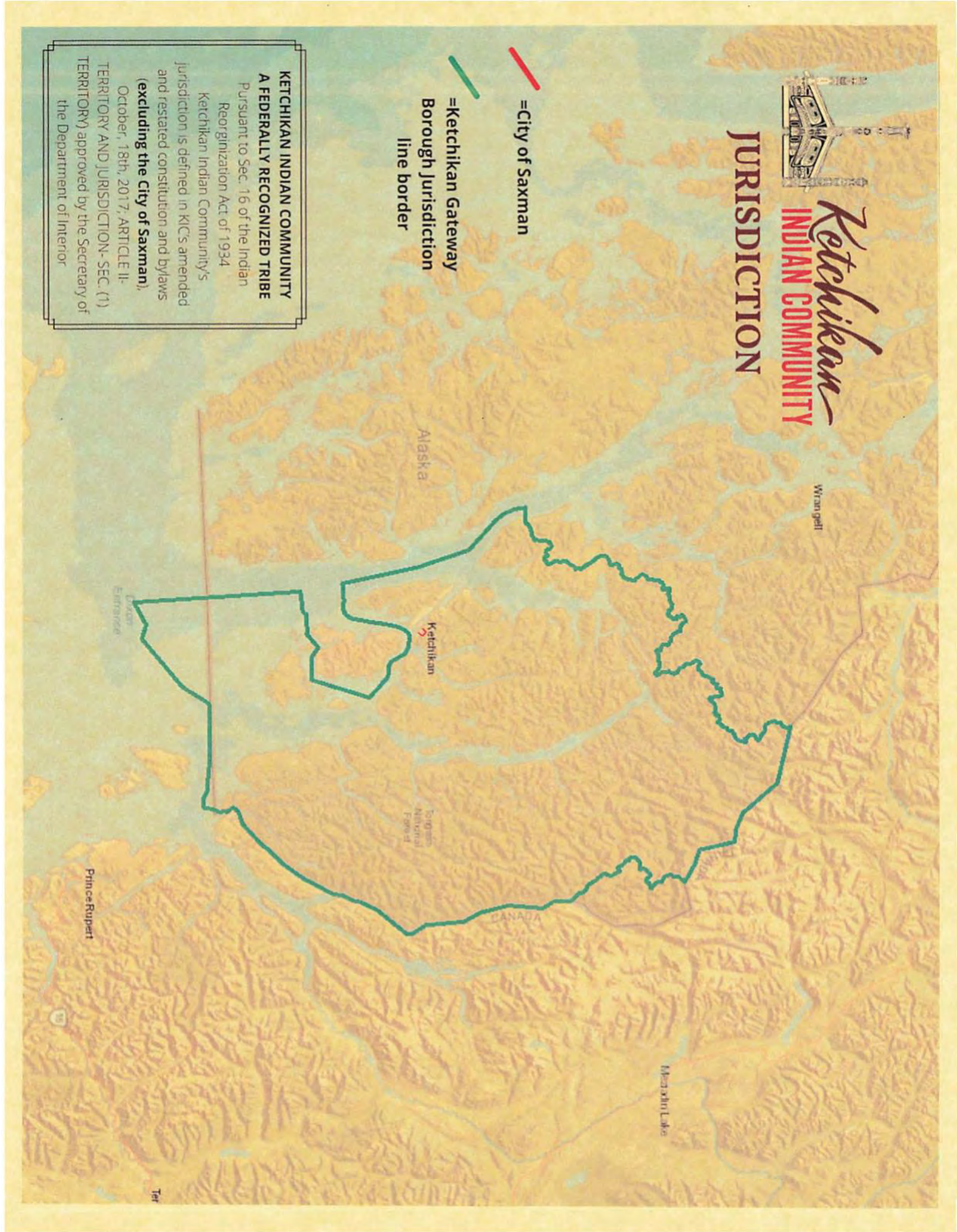
CERTIFICATION

The foregoing resolution was adopted at a duly convened meeting of the Ketchikan Indian Community Tribal Council, assembled this 21st day of March, 2022, at 2960 Tongass, Ketchikan, Alaska 99901, by a vote of: 8 FOR and 0 AGAINST

 03/21/2022
 Trixie Bennett, President Date

ATTEST:
 03/21/2022
 Judy Leask-Guthrie, Secretary Date

Effective: March 21, 2022 KIC 22-14			
Roll Call	Yes	No	Absent
BENNETT			
SKAN	X		
LEASK	X		
GUTHRIE			
EDWARDSON	X		
BURNS	X		
RUARO	X		
HAYNES	X		
JOHNSON	X		
WILLARD			
FLANERY	X		



Fisheries Resource Monitoring Program
Potential 2024 Priority Information Needs as Identified by the
Southeast Alaska Subsistence Regional Advisory Council
October, 2020

- Reliable estimates of Sockeye Salmon escapement and in-season harvest and estimates of stream discharge in the following systems: Kanalku, Klawock, Hetta, Falls Lake, Sarkar, Kook, Neva, Karta, Hatchery, Eek, Kah Sheets, Klag, Gut, Kutlaku, Salmon Bay, Sitkoh, Hoktaheen, Alecks Creek, Lake Eva and Lake Leo.
- Escapement indexes for Eulachon at the Unuk River and Yakutat Forelands.
- Population assessment for Eulachon for northern Southeast Alaska.
- Traditional ecological knowledge of how each community distributes harvest between Sockeye Salmon systems available to them.
- Reliable estimates of salmon populations and harvests in the sport and subsistence fisheries at Kah Sheets and Alecks Creek.
- Ethnographic study of the Yakutat subsistence salmon fishery.
- Reliable estimates of subsistence Sockeye Salmon harvest in the Klawock River drainage.
- Develop escapement goals for Sockeye Salmon systems with long term escapement data sets.
- Update community household fish harvest surveys.

Partners for Fisheries Monitoring Program Notice of Funding Opportunity

The Office of Subsistence Management is seeking proposals for the Partners for Fisheries Monitoring Program to strengthen Alaska Native and rural involvement in Federal subsistence management. The Partners for Fisheries Monitoring Program is a competitive grant program that provides funding for biologist/social scientist/educator positions in Alaska Native and rural nonprofit organizations with the intent of increasing the organizations' ability to participate in Federal subsistence management. In addition, the program supports a variety of opportunities for rural students to learn about subsistence resource monitoring and management through science camps and paid internships.

More information about the Partners for Fisheries Monitoring Program Notice of Funding Opportunity can be found in *GrantSolutions.gov*, *Grants.gov*, or on the Office of Subsistence Management Website <https://www.doi.gov/subsistence/partners>, or by contacting Karen Hyer at Karen_Hyer@fws.gov, 907-786-3689.



McLees Lake Weir, Unalaska Island. Photograph by Jenny Renee.



United States Department of the Interior

NATIONAL PARK SERVICE
Wrangell-St. Elias National Park & Preserve
Mile 106.8 Richardson Hwy. P.O. Box 439
Copper Center, AK 99573-0439
907 822 5234 Fax 907 822 3281
<http://www.nps.gov/wrst>



WRANGELL-ST. ELIAS NATIONAL PARK SUBSISTENCE RESOURCE COMMISSION

The Wrangell-St. Elias National Park Subsistence Resource Commission (SRC) provides a venue for local subsistence users to have input into the management of subsistence resources in Wrangell-St. Elias National Park. Since the establishment of the Federal Subsistence Program in 1990, the nine-member commission has also been making recommendations on proposals affecting the park directly to Federal Subsistence Regional Advisory Councils (RACs) and the Federal Subsistence Board.

Regional Advisory Councils appoint three members to the SRC. These members provide an important link between the SRC and the Federal Subsistence Program. The Regional Advisory Councils that address issues in Wrangell-St. Elias include the Southcentral RAC, the Eastern Interior RAC, and the Southeast RAC. In addition to the RAC appointments, three members of the SRC are appointed by the Governor of Alaska and three members are appointed by the Secretary of the Interior.

The appointments by the Southeast RAC to the SRC expired in March 2022, and the Southeast RAC has the opportunity to take action on the appointments its October 2022 meeting. In its previous action, the SE RAC made two appointments to the SRC, one for the primary representative and an optional appointment of an alternate.

According to Section 808(a) of the Alaska National Interest Lands Conservation Act (ANILCA), **RAC appointees to the SRC must be a member of either the RAC or a local Fish and Game Advisory Committee (AC) within the region and also engage in subsistence uses within the park.** In order to be eligible to engage in subsistence uses within the park, rural residents must make their primary permanent home in one of the park's resident zone communities, live within the park, or hold a subsistence permit issued pursuant to 36 Code of Federal Regulations (CFR) 13.440.



Wrangell-St. Elias SRC meets in Copper Center, AK, March 2018

Yakutat is the only Southeast Alaska community in the park's resident zone, which means that **only residents of Yakutat are eligible for this appointment. Because no Yakutat residents currently serve on the Southeast RAC, any appointee would need to be a member of the Yakutat Advisory Committee.** Two members of the Yakutat AC have expressed interest in being candidates for appointment to the Wrangell-St. Elias SRC: Larry Bemis, Jr., and Daryl James. Additional information about their qualifications will be provided during the RAC meeting.

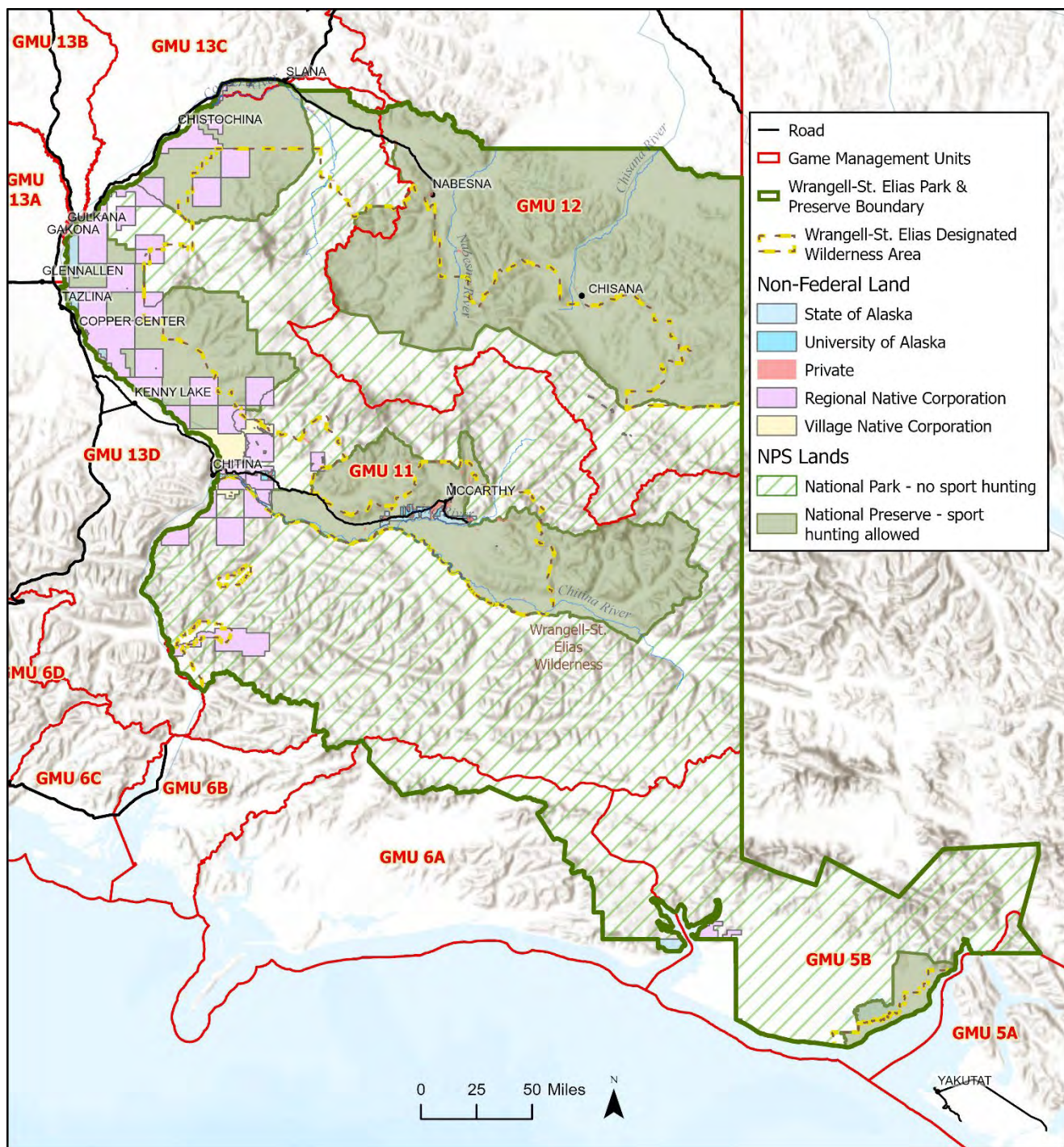
Subsistence users who have questions about or are interested in applying for a seat on the Wrangell-St. Elias SRC should contact Barbara Cellarius at (907) 822-7236 or barbara_cellarius@nps.gov. Application information is also available on the SRC webpage: <https://www.nps.gov/wrst/learn/management/subsistence-resource-commission.htm>.

Wrangell-St. Elias SRC Roster August 2022

Name	Community	Appointing Source	Expires*
Michael L. Cronk	Tok	Secretary of Interior	1/15/2024
Michael Christenson	Silver Lake	Secretary of Interior	2/26/2022
Daniel E. Stevens	Chitina	Secretary of Interior	2/26/2022
Kaleb Rowland	McCarthy	Governor	12/01/2023
Suzanne McCarthy	Gakona	Governor	12/01/2024
Donald R. Horrell	Tazlina	Governor	12/01/2024
Gloria Stickwan	Tazlina	Southcentral RAC	11/04/2023
Vacant	Yakutat	Southeast RAC	3/21/2022
Alternate Larry Bemis, Jr.	Yakutat	Southeast RAC	3/21/2022
Sue Entsminger	Mentasta Pass	Eastern Interior RAC	11/04/2024

* All members serve for three-year terms. According to 54 U.S. Code § 100906(c), members continue to serve until re-appointed or replaced. However, RAC appointees must be current members of a RAC or AC for their appointments to be valid.

Land Status Map of Wrangell-St. Elias National Park and Preserve



ANNUAL REPORTS

Background

ANILCA established the Annual Reports as the way to bring regional subsistence uses and needs to the Secretaries' attention. The Secretaries delegated this responsibility to the Board. Section 805(c) deference includes matters brought forward in the Annual Report.

The Annual Report provides the Councils an opportunity to address the directors of each of the four Department of Interior agencies and the Department of Agriculture Forest Service in their capacity as members of the Federal Subsistence Board. The Board is required to discuss and reply to each issue in every Annual Report and to take action when within the Board's authority. In many cases, if the issue is outside of the Board's authority, the Board will provide information to the Council on how to contact personnel at the correct agency. As agency directors, the Board members have authority to implement most of the actions which would effect the changes recommended by the Councils, even those not covered in Section 805(c). The Councils are strongly encouraged to take advantage of this opportunity.

Report Content

Both Title VIII Section 805 and 50 CFR §100.11 (Subpart B of the regulations) describe what may be contained in an Annual Report from the councils to the Board. This description includes issues that are not generally addressed by the normal regulatory process:

- an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;
- an evaluation of current and anticipated subsistence needs for fish and wildlife populations from the public lands within the region;
- a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs related to the public lands; and
- recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.

Please avoid filler or fluff language that does not specifically raise an issue of concern or information to the Board.

Report Clarity

In order for the Board to adequately respond to each Council's annual report, it is important for the annual report itself to state issues clearly.

- If addressing an existing Board policy, Councils should please state whether there is something unclear about the policy, if there is uncertainty about the reason for the policy, or if the Council needs information on how the policy is applied.
- Council members should discuss in detail at Council meetings the issues for the annual report and assist the Council Coordinator in understanding and stating the issues clearly.

- Council Coordinators and OSM staff should assist the Council members during the meeting in ensuring that the issue is stated clearly.

Thus, if the Councils can be clear about their issues of concern and ensure that the Council Coordinator is relaying them sufficiently, then the Board and OSM staff will endeavor to provide as concise and responsive of a reply as is possible.

Report Format

While no particular format is necessary for the Annual Reports, the report must clearly state the following for each item the Council wants the Board to address:

1. Numbering of the issues,
2. A description of each issue,
3. Whether the Council seeks Board action on the matter and, if so, what action the Council recommends, and
4. As much evidence or explanation as necessary to support the Council's request or statements relating to the item of interest.



2023 NORTH AMERICAN CARIBOU WORKSHOP & ARCTIC UNGULATE CONFERENCE

Anchorage, Alaska ■ May 8-12, 2023

Come to the conference to share your knowledge and learn from others! Join an international group of managers, biologists, Indigenous and Local Knowledge holders, and others to share knowledge of caribou, muskoxen, Dall's sheep, moose, and reindeer. The meeting will provide opportunities for exchanging viewpoints, concerns, and recommendations regarding the health, stewardship, use, and study of these important species.

The theme for the joint meeting is *Crossing Boundaries*. Arctic ungulates regularly cross landscape boundaries, connecting ecosystems and peoples, necessitating partnerships and collaboration across management and political boundaries. A critical component of such partnerships involves crossing the boundaries of Western science and Indigenous knowledges to identify creative opportunities to sustain Arctic ungulate populations in a changing world. We will explore these themes across four days of research talks, storytelling, workshops and panel discussions. Join us!

For more information visit www.nacw-auc-2023.org or e-mail info@nacw-auc-2023.org.





Alaska Board of Game

P.O. Box 115526

Juneau, AK 99811-5526

(907) 465-4110

www.boardofgame.adfg.alaska.gov

ALASKA BOARD OF GAME
2022/2023 Meeting Cycle
Tentative Meeting Dates

Meeting Dates	Topic	Location	Comment Deadline
January 19, 2023 (1 day)	Work Session	Ketchikan	January 13, 2023
January 20 - 24, 2023 (5 days)	Southeast Region Game Management Units 1, 2, 3, 4 & 5	Ketchikan	January 6, 2023
March 17 - 21, 2023 (5 days)	Southcentral Region Game Management Units 6, 7, 8, 14C and 15	Kenai / Soldotna	March 3, 2023

Total Meeting Days: 11

Proposal Deadline: Friday, April 29, 2022

Agenda Change Request Deadline: Monday, November 1, 2022

(The Board of Game will meet via teleconference to consider Agenda Change Requests following the November 1 deadline.)

Winter 2023 Regional Advisory Council Meeting Calendar

Last updated 03/28/2022

Due to travel budget limitations placed by Department of the Interior on the U.S. Fish and Wildlife Service and the Office of Subsistence Management, the dates and locations of these meetings will be subject to change

Sunday	Monday	Tuesday	Wednesday-	Thursday	Friday	Saturday
<i>Feb. 19</i>	Feb. 20 PRESIDENTS DAY HOLIDAY	<i>Feb. 21</i> <i>Window Opens</i>	<i>Feb. 22</i>	<i>Feb. 23</i> NSRAC (Kaktovik)	<i>Feb. 24</i>	<i>Feb. 25</i>
			KARAC (TBD)			
<i>Feb. 26</i>	<i>Feb. 27</i>	<i>Feb. 28</i>	<i>Mar. 1</i>	<i>Mar. 2</i>	<i>Mar. 3</i>	<i>Mar. 4</i>
		SEARAC (Juneau)				
			EIRAC (Arctic Village or Fairbanks)			
<i>Mar. 5</i>	<i>Mar. 6</i>	<i>Mar. 7</i>	<i>Mar. 8</i>	<i>Mar. 9</i>	<i>Mar. 10</i>	<i>Mar. 11</i>
	NWARAC (TBD)					
<i>Mar. 12</i>	<i>Mar. 13</i>	<i>Mar. 14</i>	<i>Mar. 15</i>	<i>Mar. 16</i>	<i>Mar. 17</i>	<i>Mar. 18</i>
		BBRAC (Dillingham)		SCRAC (Anchorage)		
<i>Mar. 19</i>	<i>Mar. 20</i>	<i>Mar. 21</i>	<i>Mar. 22</i>	<i>Mar. 23</i>	<i>Mar. 24</i>	<i>Mar. 25</i>
			SPRAC (Nome)			
<i>Mar. 26</i>	<i>Mar. 27</i>	<i>Mar. 28</i>	<i>Mar. 29</i>	<i>Mar. 30</i>	<i>Mar. 31</i>	<i>Apr. 1</i>
<i>Apr. 2</i>	<i>Apr. 3</i>	<i>Apr. 4</i>	<i>Apr. 5</i>	<i>Apr. 6</i>	<i>Apr. 7</i> <i>Window Closes</i>	<i>Apr. 8</i>
	YKDRAC (Alakanuk)					
		WIRAC (Aniak)				

Fall 2023 Regional Advisory Council Meeting Calendar

Last updated 08/1/2022

Due to travel budget limitations placed by Department of the Interior on the U.S. Fish and Wildlife Service and the Office of Subsistence Management, the dates and locations of these meetings will be subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug. 13	Aug. 14 Window Opens	Aug. 15	Aug. 16	Aug. 17	Aug. 18	Aug. 19
Aug. 20	Aug. 21	Aug. 22	Aug. 23	Aug. 24	Aug. 25	Aug. 26
Aug. 27	Aug. 28	Aug. 29	Aug. 30	Aug. 31	Sep. 1	Sep. 2
Sep. 3	Sep. 4 Labor Day Holiday	Sep. 5	Sep. 6	Sep. 7	Sep. 8	Sep. 9
Sep. 10	Sep. 11	Sep. 12	Sep. 13	Sep. 14	Sep. 15	Sep. 16
Sep. 17	Sep. 18	Sep. 19	Sep. 20	Sep. 21	Sep. 22	Sep. 23
Sep. 24	Sep. 25	Sep. 26	Sep. 27	Sep. 28	Sep. 29	Sep. 30
Oct. 1	Oct. 2	Oct. 3	Oct. 4	Oct. 5	Oct. 6	Oct. 7
Oct. 8	Oct. 9 Columbus Day Holiday	Oct. 10	Oct. 11	Oct. 12	Oct. 13	Oct. 14
Oct. 15	Oct. 16	Oct. 17	Oct. 18	Oct. 19	Oct. 20	Oct. 21
Oct. 22	Oct. 23	Oct. 24	Oct. 25	Oct. 26	Oct. 27	Oct. 28
Oct. 29	Oct. 30	Oct. 31	Nov. 1	Nov. 2	Nov. 3 Window Closes	Nov. 4

Subsistence Regional Advisory Council Correspondence Policy

The Federal Subsistence Board (Board) recognizes the value of the Regional Advisory Councils' role in the Federal Subsistence Management Program. The Board realizes that the Councils must interact with fish and wildlife resource agencies, organizations, and the public as part of their official duties, and that this interaction may include correspondence. Since the beginning of the Federal Subsistence Program, Regional Advisory Councils have prepared correspondence to entities other than the Board. Informally, Councils were asked to provide drafts of correspondence to the Office of Subsistence Management (OSM) for review prior to mailing. Recently, the Board was asked to clarify its position regarding Council correspondence. This policy is intended to formalize guidance from the Board to the Regional Advisory Councils in preparing correspondence.

The Board is mindful of its obligation to provide the Regional Advisory Councils with clear operating guidelines and policies, and has approved the correspondence policy set out below. The intent of the Regional Advisory Council correspondence policy is to ensure that Councils are able to correspond appropriately with other entities. In addition, the correspondence policy will assist Councils in directing their concerns to others most effectively and forestall any breach of department policy.

The Alaska National Interest Lands Conservation Act, Title VIII required the creation of Alaska's Subsistence Regional Advisory Councils to serve as advisors to the Secretary of the Interior and the Secretary of Agriculture and to provide meaningful local participation in the management of fish and wildlife resources on Federal public lands. Within the framework of Title VIII and the Federal Advisory Committee Act, Congress assigned specific powers and duties to the Regional Advisory Councils. These are also reflected in the Councils' charters. (*Reference: ANILCA Title VIII §805, §808, and §810; Implementing regulations for Title VIII, 50 CFR 100 __.11 and 36 CFR 242 __.11; Implementing regulations for FACA, 41 CFR Part 102-3.70 and 3.75*)

The Secretaries of Interior and Agriculture created the Federal Subsistence Board and delegated to it the responsibility for managing fish and wildlife resources on Federal public lands. The Board was also given the duty of establishing rules and procedures for the operation of the Regional Advisory Councils. The Office of Subsistence Management was established within the Federal Subsistence Management Program's lead agency, the U.S. Fish and Wildlife Service, to administer the Program. (*Reference: 36 CFR Part 242 and 50 CFR Part 100 Subparts C and D*)

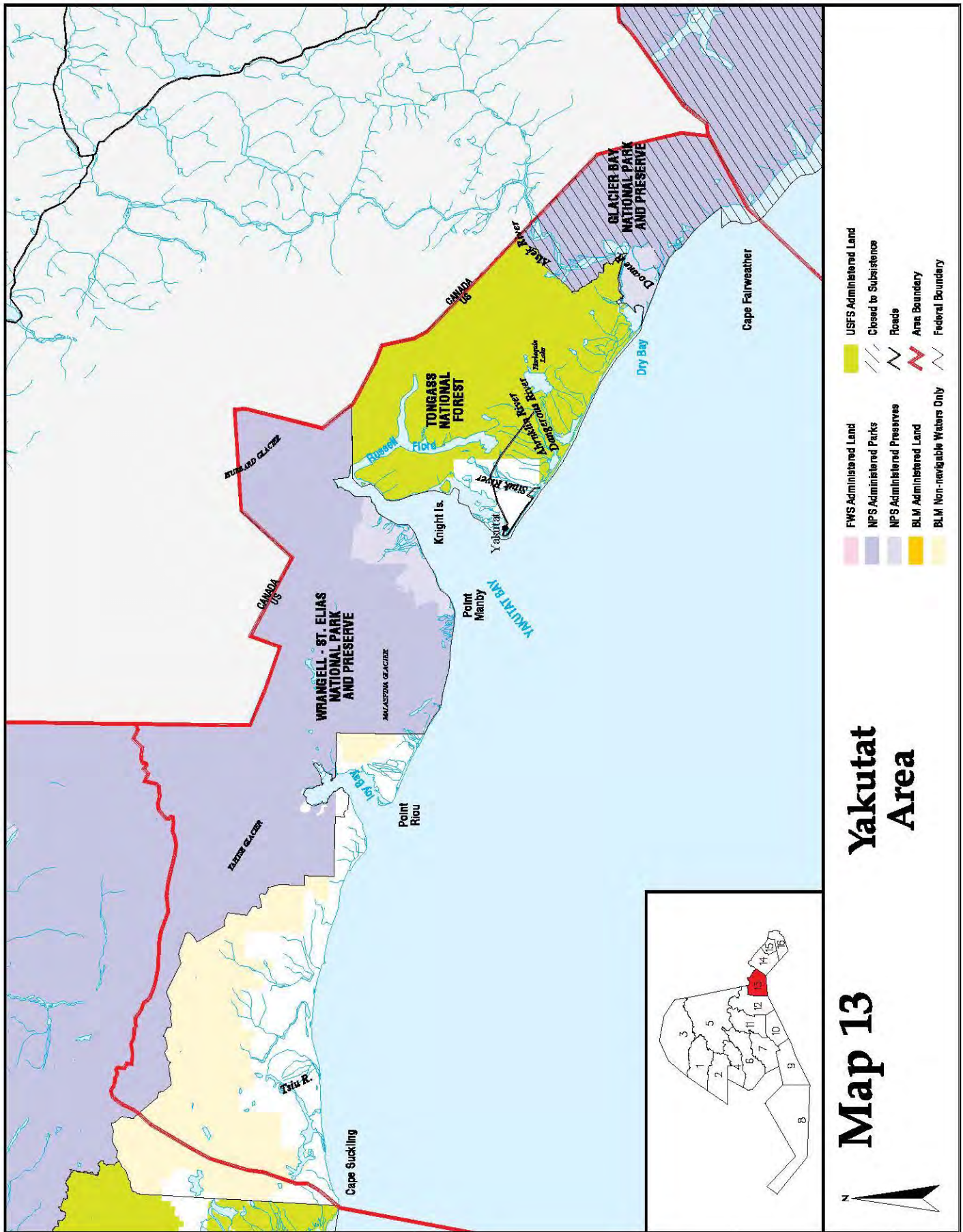
Policy

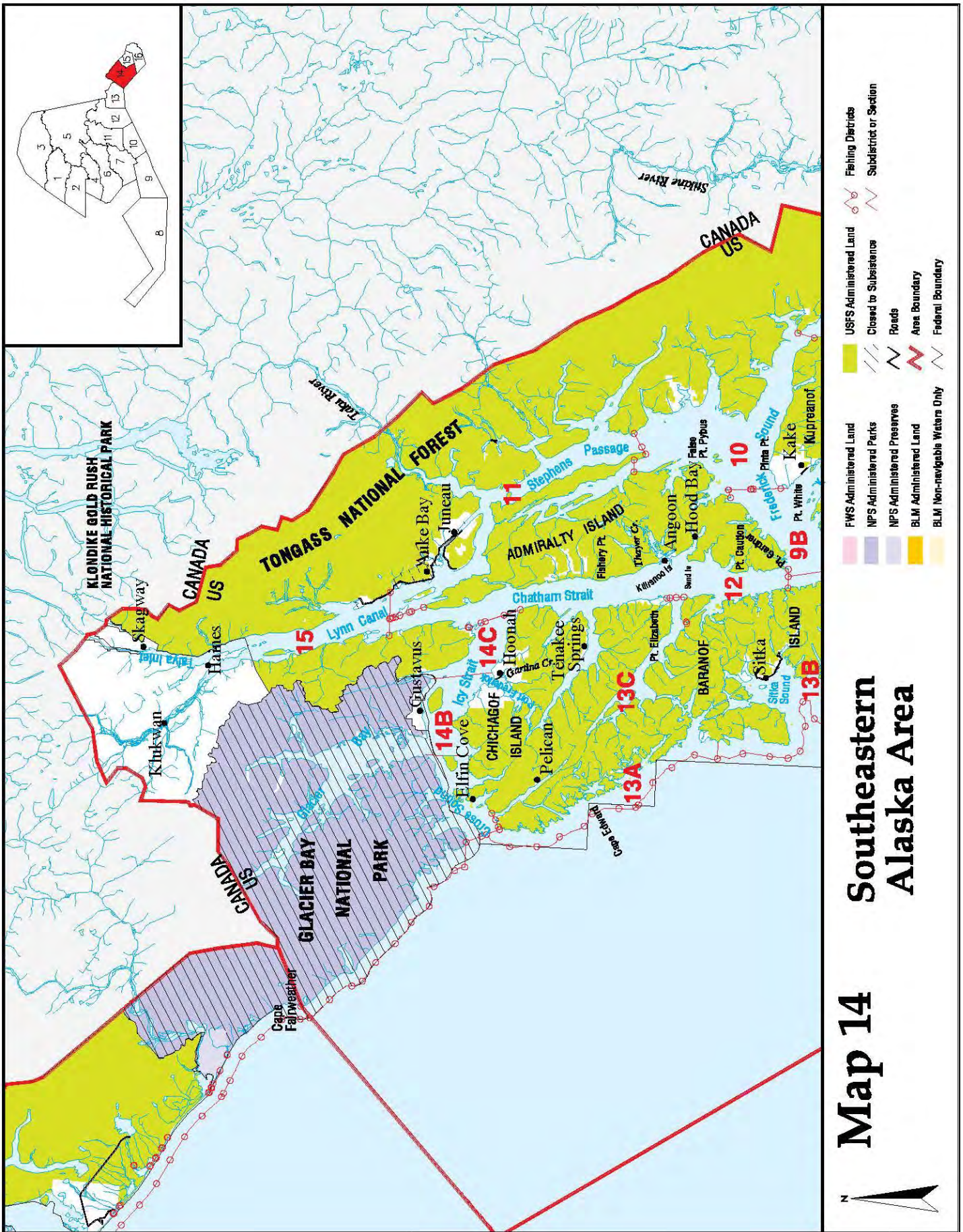
1. The subject matter of Council correspondence shall be limited to matters over which the Council has authority under §805(a)(3), §808, §810 of Title VIII, Subpart B §___.11(c) of regulation, and as described in the Council charters.
2. Councils may, and are encouraged to, correspond directly with the Board. The Councils are advisors to the Board.
3. Councils are urged to also make use of the annual report process to bring matters to the Board's attention.

4. As a general rule, Councils discuss and agree upon proposed correspondence during a public meeting. Occasionally, a Council chair may be requested to write a letter when it is not feasible to wait until a public Council meeting. In such cases, the content of the letter shall be limited to the known position of the Council as discussed in previous Council meetings.
5. Except as noted in Items 6, 7, and 8 of this policy, Councils will transmit all correspondence to the Assistant Regional Director (ARD) of OSM for review prior to mailing. This includes, but is not limited to, letters of support, resolutions, letters offering comment or recommendations, and any other correspondence to any government agency or any tribal or private organization or individual.
 - a. Recognizing that such correspondence is the result of an official Council action and may be urgent, the ARD will respond in a timely manner.
 - b. Modifications identified as necessary by the ARD will be discussed with the Council chair. Councils will make the modifications before sending out the correspondence.
6. Councils may submit written comments requested by Federal land management agencies under ANILCA §810 or requested by regional Subsistence Resource Commissions (SRC) under §808 directly to the requesting agency. Section 808 correspondence includes comments and information solicited by the SRCs and notification of appointment by the Council to an SRC.
7. Councils may submit proposed regulatory changes or written comments regarding proposed regulatory changes affecting subsistence uses within their regions to the Alaska Board of Fisheries or the Alaska Board of Game directly. A copy of any comments or proposals will be forwarded to the ARD when the original is submitted.
8. Administrative correspondence such as letters of appreciation, requests for agency reports at Council meetings, and cover letters for meeting agendas will go through the Council's regional coordinator to the appropriate OSM division chief for review.
9. Councils will submit copies of all correspondence generated by and received by them to OSM to be filed in the administrative record system.
10. Except as noted in Items 6, 7, and 8, Councils or individual Council members acting on behalf of or as representative of the Council may not, through correspondence or any other means of communication, attempt to persuade any elected or appointed political officials, any government agency, or any tribal or private organization or individual to take a particular action on an issue. This does not prohibit Council members from acting in their capacity as private citizens or through other organizations with which they are affiliated.

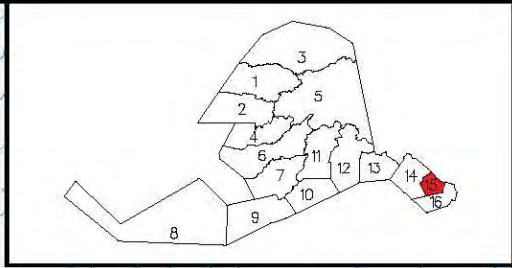
Approved by the Federal Subsistence Board on June 15, 2004.





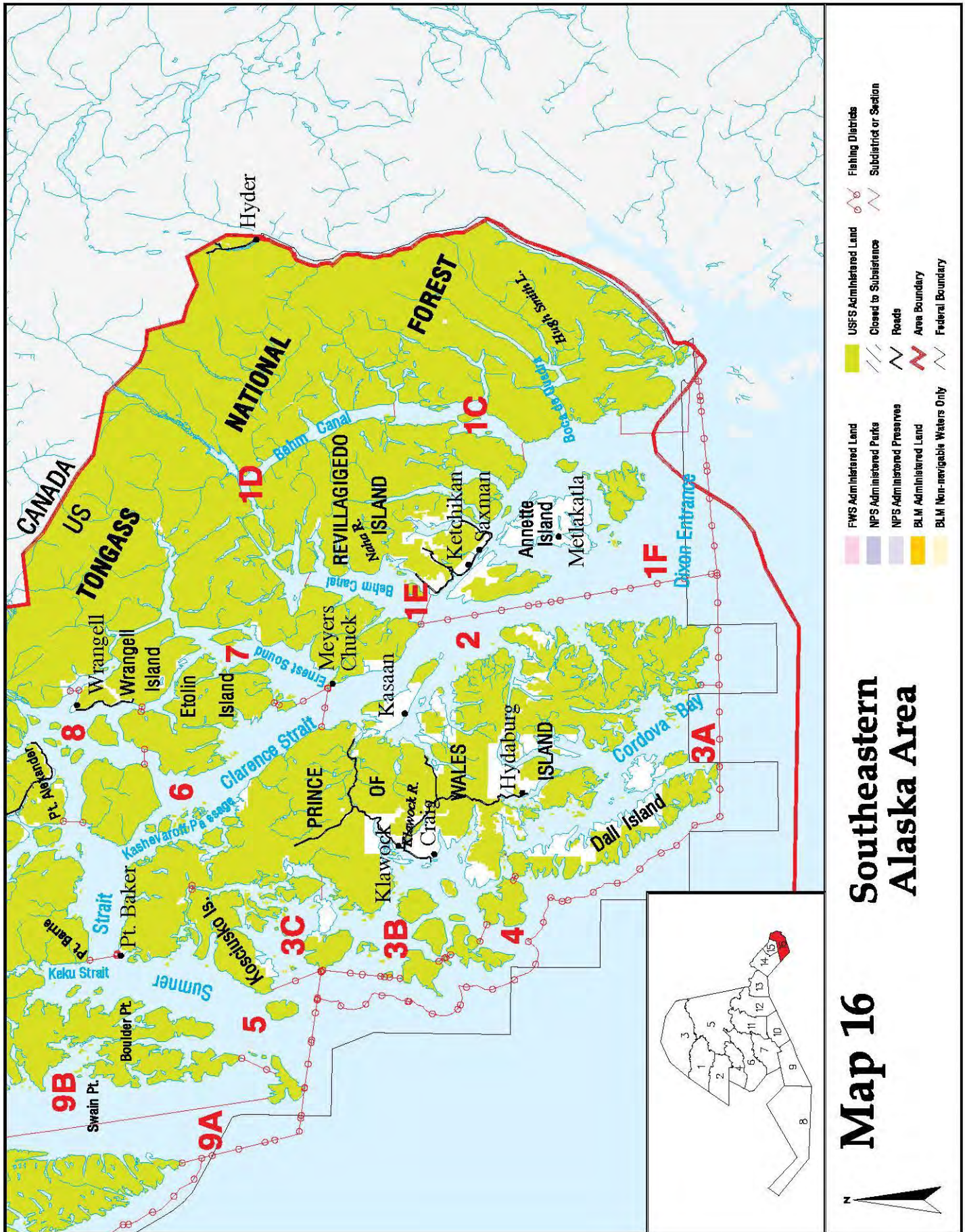


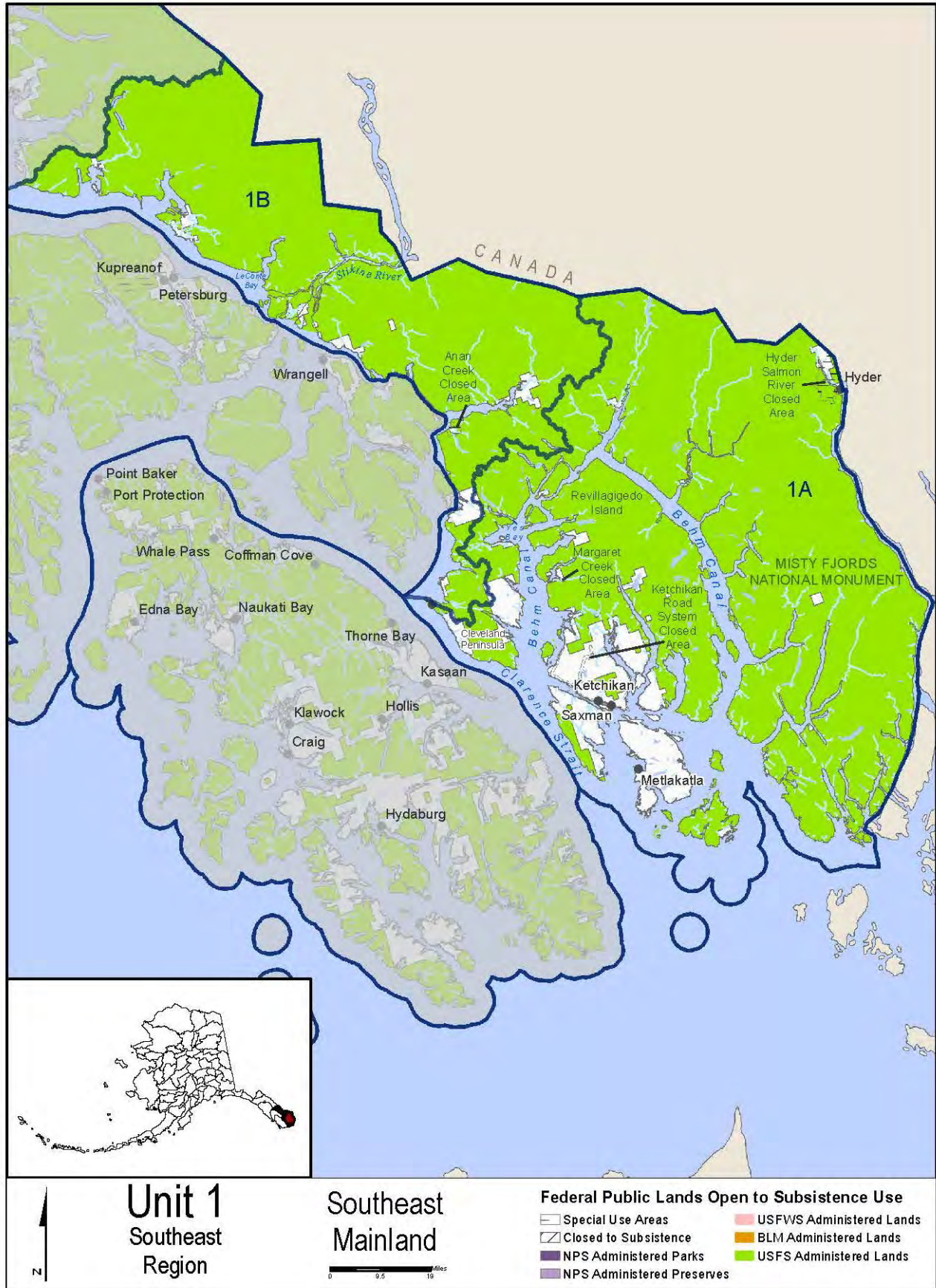
Map 14
Southeastern
Alaska Area

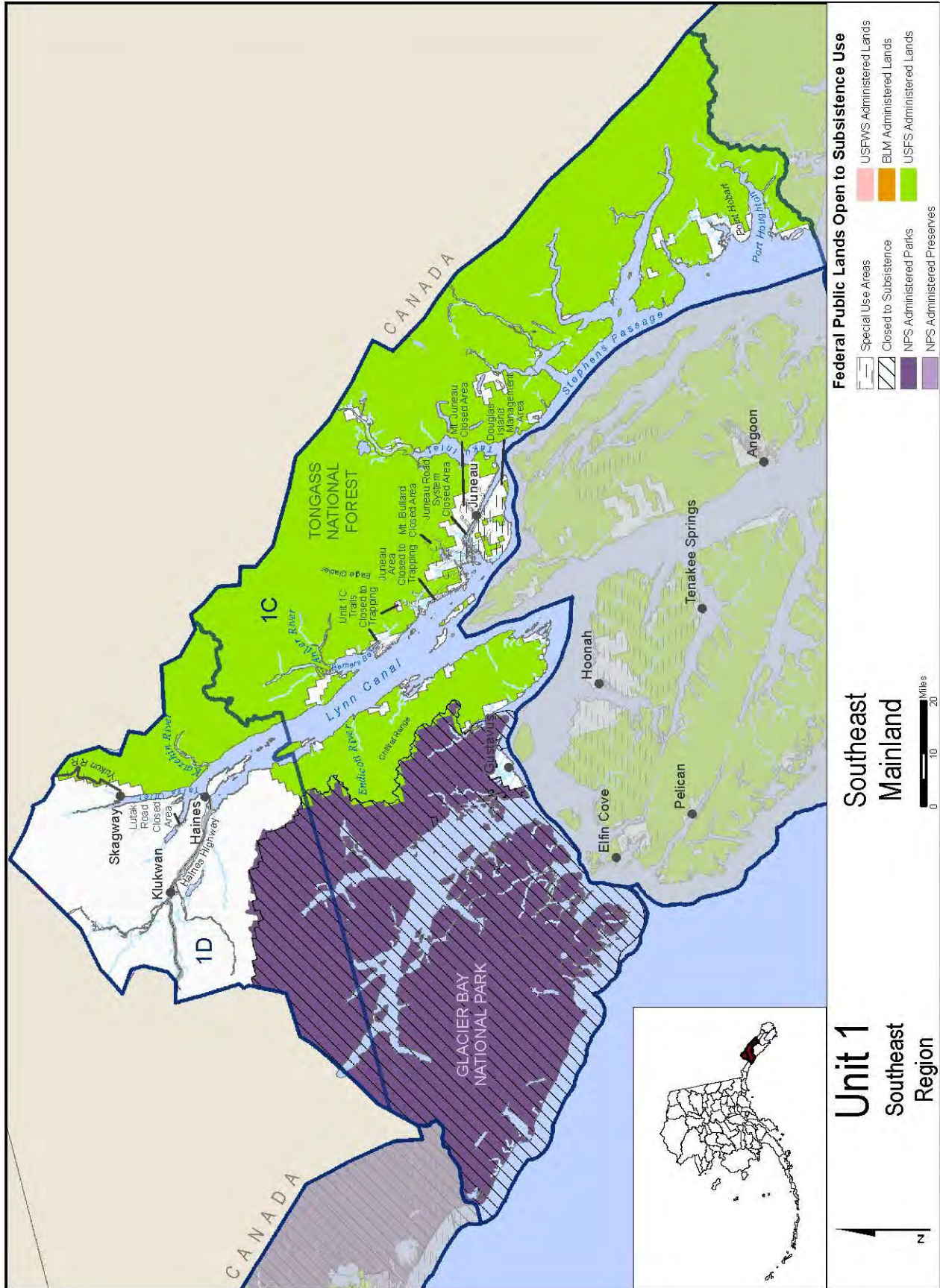


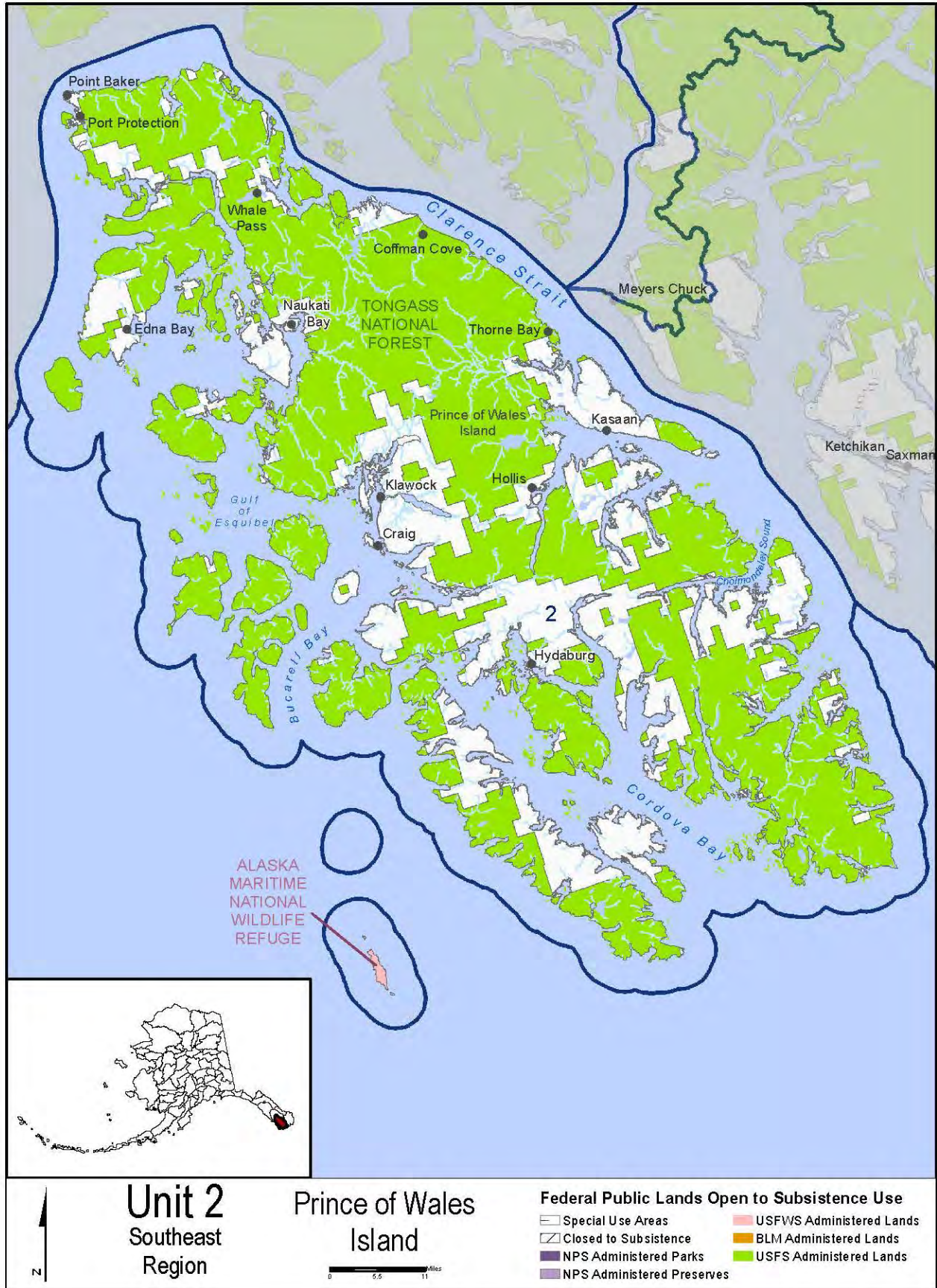
Map 15 Southeastern Alaska Area

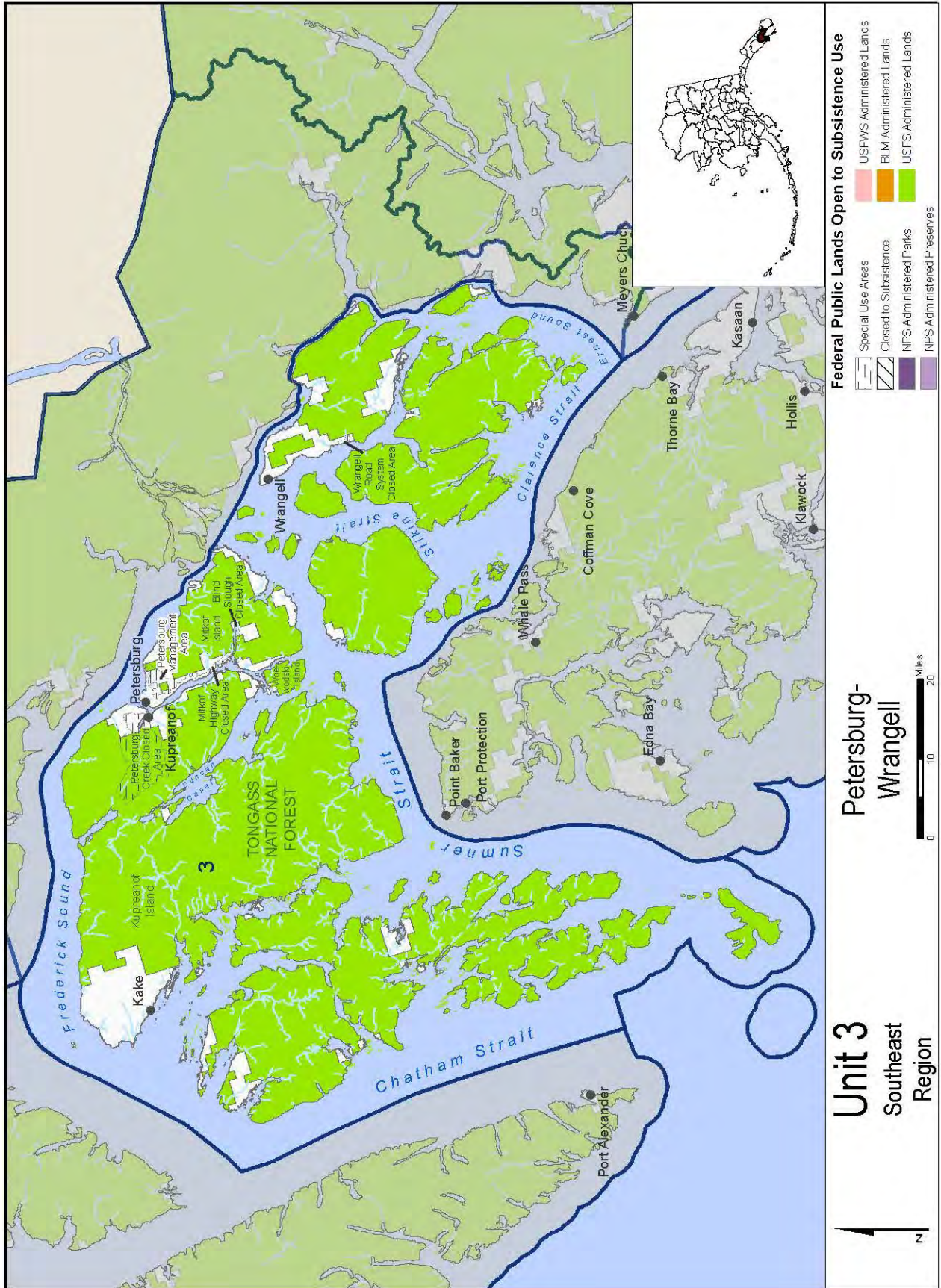
- | | | |
|-------------------------------|------------------------|------------------------|
| FWS Administered Land | USFS Administered Land | Fishing Districts |
| NPS Administered Parks | Closed to Subsistence | Subdistrict or Section |
| NPS Administered Preserves | Roads | |
| BLM Administered Land | Area Boundary | |
| BLM Non-navigable Waters Only | Federal Boundary | |

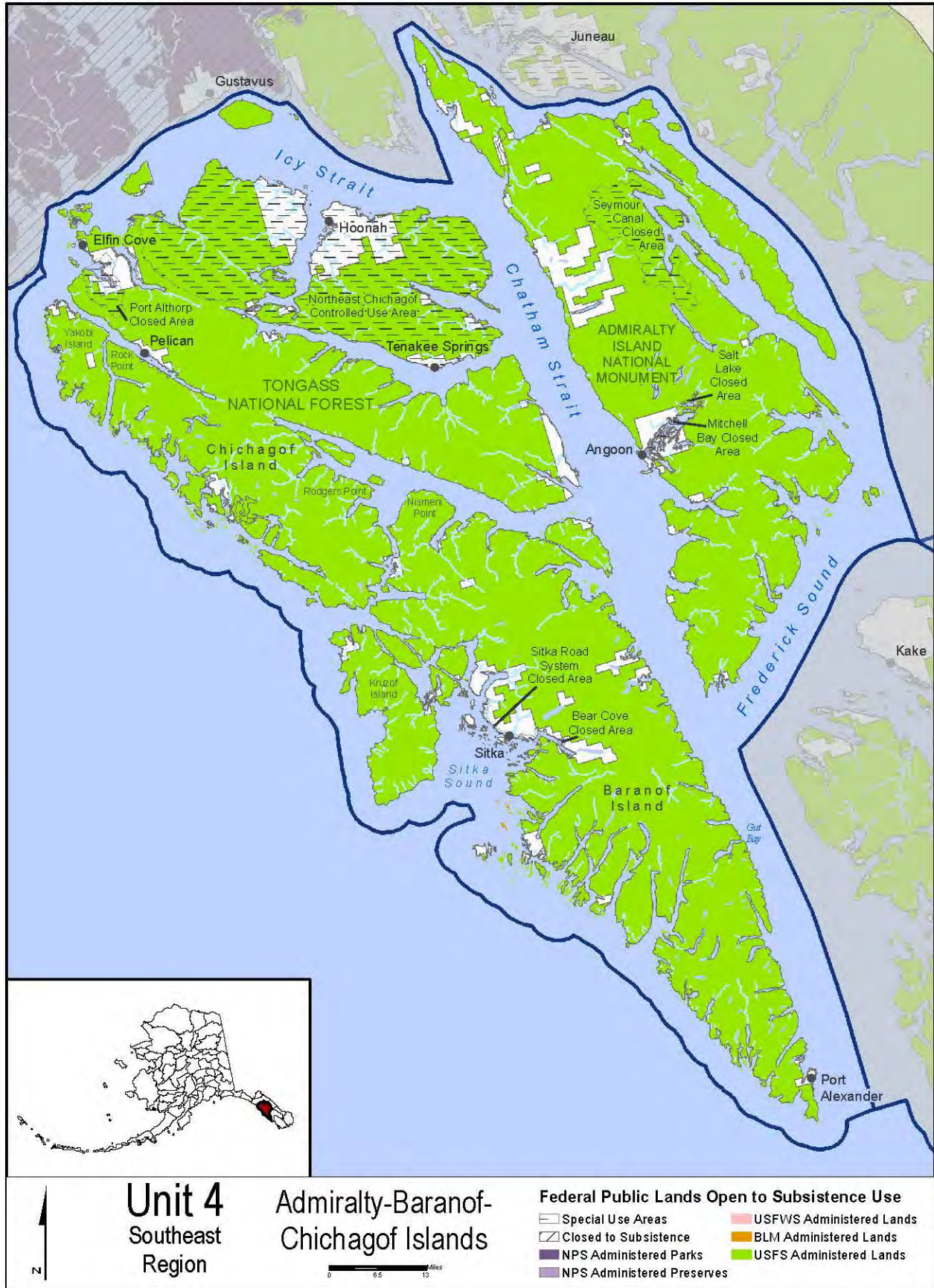


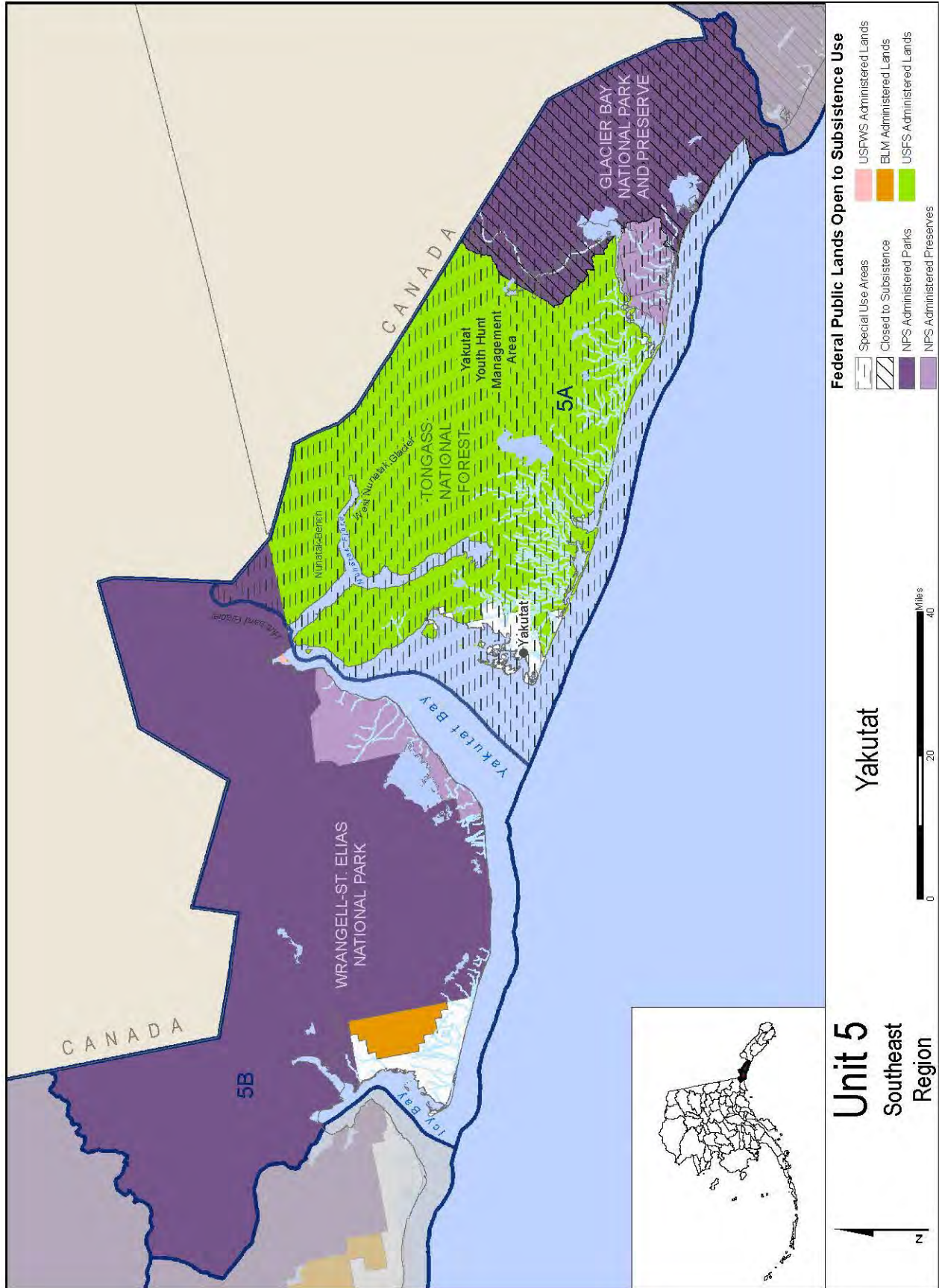












**Department of the Interior
U. S. Fish and Wildlife Service**

Southeast Alaska Subsistence Regional Advisory Council

Charter

1. **Committee’s Official Designation.** The Council’s official designation is the Southeast Alaska Subsistence Regional Advisory Council (Council).
2. **Authority.** The Council is renewed by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3115 (1988)) Title VIII, and under the authority of the Secretary of the Interior, in furtherance of 16 U.S.C. 410hh-2. The Council is regulated by the Federal Advisory Committee Act (FACA), as amended, (5 U.S.C., Appendix 2).
3. **Objectives and Scope of Activities.** The objective of the Council is to provide a forum for the residents of the Region with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal lands and waters in the Region.
4. **Description of Duties.** Council duties and responsibilities, where applicable, are as follows:
 - a. Recommend the initiation, review, and evaluate of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the region.
 - b. Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife on public lands within the Region.
 - c. Encourage local and regional participation in the decision-making process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses.
 - d. Prepare an annual report to the Secretary containing the following:
 - (1) An identification of current and anticipated subsistence uses of fish and wildlife populations within the Region;
 - (2) An evaluation of current and anticipated subsistence needs for fish and wildlife populations within the Region;

- (3) A recommended strategy for the management of fish and wildlife populations within the Region to accommodate such subsistence uses and needs; and
 - (4) Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.
 - e. Appoint one member to the Wrangell-St. Elias National Park Subsistence Resource Commission in accordance with section 808 of the ANILCA.
 - f. Make recommendations on determinations of customary and traditional use of subsistence resources.
 - g. Make recommendations on determinations of rural status.
 - h. Provide recommendations on the establishment and membership of Federal local advisory committees.
- 5. **Agency or Official to Whom the Council Reports.** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.
- 6. **Support.** The U.S. Fish and Wildlife Service will provide administrative support for the activities of the Council through the Office of Subsistence Management.
- 7. **Estimated Annual Operating Costs and Staff Years.** The annual operating costs associated with supporting the Council’s functions are estimated to be \$195,000, including all direct and indirect expenses and 1.15 Federal staff years.
- 8. **Designated Federal Officer.** The DFO is the Subsistence Council Coordinator for the Region or such other Federal employee as may be designated by the Assistant Regional Director – Subsistence, Region 11, U.S. Fish and Wildlife Service. The DFO is a full-time Federal employee appointed in accordance with Agency procedures. The DFO will:
 - (a) Approve or call all Council and subcommittee meetings;
 - (b) Prepare and approve all meeting agendas;
 - (c) Attend all committee and subcommittee meetings;
 - (d) Adjourn any meeting when the DFO determines adjournment to be in the public interest; and

(e) Chair meetings when directed to do so by the official to whom the advisory committee reports.

9. Estimated Number and Frequency of Meetings. The Council will meet 1-2 times per year, and at such times as designated by the Federal Subsistence Board Chair or the DFO.

10. Duration. Continuing.

11. Termination. The Council will be inactive 2 years from the date the charter is filed, unless prior to that date, the charter is renewed in accordance with provisions of section 14 of the FACA. The Council will not meet or take any action without a valid current charter.

12. Membership and Designation. The Council’s membership is composed of representative members as follows:

Thirteen members who are knowledgeable and experienced in matters relating to subsistence uses of fish and wildlife and who are residents of the region represented by the Council.

To ensure that each Council represents a diversity of interests, the Federal Subsistence Board in their nomination recommendations to the Secretary will strive to ensure that nine of the members (70 percent) represent subsistence interests within the region and four of the members (30 percent) represent commercial and sport interests within the region. The portion of membership representing commercial and sport interests must include, where possible, at least one representative from the sport community and one representative from the commercial community.

The Secretary of the Interior will appoint members based on the recommendations from the Federal Subsistence Board and with the concurrence of the Secretary of Agriculture.

Members will be appointed for 3-year terms. Members serve at the discretion of the Secretary.

If appointments for a given year have not yet been announced, a member may continue to serve on the Council following the expiration of his or her term until such appointments have been made. Unless reappointed, the member’s service ends on the date of announcement even if that member's specific seat remains unfilled.

Alternate members may be appointed to the Council to fill vacancies if they occur out of cycle. An alternate member must be approved and appointed by the Secretary before attending the meeting as a representative. The term for an appointed alternate member will be the same as the term of the member whose vacancy is being filled.

Council members will elect a Chair, a Vice-Chair, and Secretary for a 1-year term.

Members of the Council will serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council, or subcommittee business, approved by the DFO, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under Section 5703 of title 5 of the United States Code.

13. **Ethics Responsibilities of Members.** No Council or subcommittee member will participate in any Council or subcommittee deliberations or votes relating to a specific party matter before the Department or its bureaus and offices including a lease, license, permit, contract, grant, claim, agreement, or litigation in which the member or the entity the member represents has a direct financial interest.
14. **Subcommittees.** Subject to the DFO’s approval, subcommittees may be formed for the purpose of compiling information or conducting research. However, such subcommittees must act only under the direction of the DFO and must report their recommendations to the full Council for consideration. Subcommittees must not provide advice or work products directly to the Agency. Subcommittees will meet as necessary to accomplish their assignments, subject to the approval of the DFO and the availability of resources.
15. **Recordkeeping.** The Records of the Council, and formally and informally established subcommittees or other subgroups of the Council, must be handled in accordance with General Records Schedule 6.2, and other approved Agency records disposition schedules. These records must be available for public inspection and copying, subject to the Freedom of Information Act (5 U.S.C. 552).

_____/signature on the filed original/
Secretary of the Interior

Dec. 10, 2021
Date Signed

Dec. 13, 2021
Date Filed

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