



Federal Subsistence Board Public Meeting Meeting Materials

January 26-29, 2021
Anchorage, Alaska via teleconference



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What's Inside...

Page

i	Meeting Agenda
iii	Consensus Agenda
v	Non-Consensus Agenda
1	Individual Customary and Traditional Use Process
23	Wildlife Special Action WSA20-07
33	Ahtna Inter-Tribal Resource Commission Community Harvest Framework
	<i>Fisheries Proposals and Nonrural Proposal</i>
39	FP21-01
52	FP21-02
61	FP21-03
68	FP21-05
79	FP21-06
93	FP21-07
99	FP21-08
109	FP21-09
127	FP21-10
186	FP21-11
216	FP21-12
246	FP21-13
276	FP21-14
302	RP19-01
	<i>Fisheries Closure Reviews</i>
330	FCR21-01
339	FCR21-04
356	FCR21-06
366	FCR21-07
380	FCR21-08
395	FCR21-09
410	FCR21-11
425	FCR21-13
439	FCR21-16
448	FCR21-18
456	FCR21-19
464	FCR21-22

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**FEDERAL SUBSISTENCE BOARD
PUBLIC MEETING AGENDA
January 26-29, 2021
Anchorage, Alaska (via teleconference)**

January 26, 2021: 1:30 p.m. to 5:00 p.m. (or until recessed)
January 27-29, 2021: 9:00 a.m. to 5:00 p.m. (or until recessed)

The meeting will convene by **teleconference only**
To participate, dial toll free **(888) 566-1030**, (passcode **3344290**)

On January 26th, prior to the start of the Public Meeting, the Federal Subsistence Board will meet at 9:00 a.m. to conduct Tribal Government-to-Government and ANCSA Corporation consultations regarding proposals to change Federal Subsistence Regulations. The Public Meeting will begin at 1:30 p.m. Updates on the Board's progress through the agenda can be obtained by calling (800) 478-1456 or (907) 786-3888.

Public Meeting

*** Asterisk denotes Action Item**

- 1. Call to Order and Welcome**
- 2. Review and Adopt Agenda***
- 3. Federal Subsistence Board Information Sharing**
- 4. Regional Advisory Council Chairs Discuss Topics of Concern with the Board**
- 5. Public Comment Period on Non-Agenda Items** (*This opportunity is available at the beginning of each day*)
- 6. Old Business**
 - a. Individual Customary and Traditional Use Process*
 - b. Wildlife Special Action WSA20-07*
 - c. Ahtna Intertribal Resource Commission Community Harvest Framework*
 - d. Deferred Proposal WP20-26 Update

7. 2021–2023 Subparts C&D Proposals and Closure Reviews (*Fish and Shellfish Regulations*)

- a. Tribal Government-to-Government and ANCSA Corporation Consultation Summary
- b. Announcement of Consensus Agenda (*see detailed agenda that follows*)
- c. Public Comment Period on Consensus Agenda Items (*This opportunity is available at the beginning of each subsequent day prior to the final action*)
- d. Board deliberation and action on Non-Consensus Agenda items* (*see detailed agenda that follows*)
- e. Adoption of Consensus Agenda*

8. Nonrural Proposal

- a. Nonrural Proposal RP19-01*

9. Recognition of Harry Wilde, Sr.

10. Schedule of Upcoming Board Meetings*

- a. 2021 Summer Work Session (*Topics to be determined*)
- b. 2022 April Public Meeting (*Wildlife Regulations*)

11. Adjourn

Audio Access Information:

Toll-Free: 1-888-566-1030

Pass Code: 3344290

**FEDERAL SUBSISTENCE BOARD
CONSENSUS AGENDA PROPOSALS**

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

Proposal	Region/Unit/Species	Recommendation	Page
FP21-01 Repeal closure to subsistence fishing prior to, during and after State commercial fishing periods in Kuskokwim Districts 1 and 2—salmon	Yukon-Kuskokwim, Western Interior/Districts 1–2/all fish	Support	39
FP21-03 Modify language to clarify set gillnet orientation in tributaries of the Kuskokwim River—all fish	Yukon-Kuskokwim Delta, Western Interior, Seward Peninsula, Eastern Interior/Districts 1–3/Chinook Salmon	Support	61
FP21-05 Repeal Federal subsistence language referring to State commercial districts in the Bristol Bay Area—salmon	Bristol Bay/Region/all fish	Support	68
FP21-06 Modify Federal subsistence regulations in the Bristol Bay Area to include dip net, beach seine, and gill net—salmon	Bristol Bay/Region/salmon	Oppose	79
FP21-07 Repeal time restrictions for harvesting salmon in the Egegik River—salmon	Bristol Bay/Egegik River/all fish	Support	93

Proposal	Region/Unit/Species	Recommendation	Page
FP21-08 Repeal prohibition of harvesting fish 300 feet from a stream mouth used by salmon for the Bristol Bay Area—all fish	Bristol Bay/Region/all fish	Oppose	99
FP21-09 Modify naming conventions of early-run and late-run Kenai River Chinook Salmon with specific date ranges—Chinook Salmon	Southcentral/Kenai River/Chinook Salmon	Support	109
FP21-12 Modify Federal regulation to remove the use of monofilament or multifilament mesh dip nets prior to August 15th in the upper Copper River—salmon	Southcentral, Eastern Interior/Copper River/salmon	Oppose	216
FCR21-01 Closure to Federally qualified subsistence users in the Unalakleet Drainage—Chinook Salmon	Seward Peninsula/Unalakleet River/Chinook Salmon	Status Quo	330
FCR21-04 Closure to Federally qualified subsistence users in the Yukon drainage—all fish	Western Interior, Seward Peninsula, Yukon-Kuskokwim Delta, North Slope, Eastern Interior/Jim River Drainage/Grayling	Support—Eliminate Closure and allow bag/possession limit of 10 Grayling per day by rod and reel in Jim River including Douglas and Prospect Creeks	339
FCR21-06 Closure to Federally qualified subsistence users in the Toklat River—all fish	Eastern Interior, Southcentral, Western Interior/Toklat River drainage/all fish	Support—Eliminate Closure	356
FCR21-22 Closure to all except Federally qualified subsistence users in the Makhnati Island Federal public waters—Herring and spawn	Southeast/Makhnati Island Marine Waters/Herring	Maintain Status Quo	464

**FEDERAL SUBSISTENCE BOARD
NON-CONSENSUS AGENDA**

Procedure for considering proposals:

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

Proposal	Region/Unit/Species	Page
FP21-02 Modify spacing requirements for set gillnets in Kuskokwim River tributaries from 150 feet to 75 feet—all fish	Yukon-Kuskokwim, Western Interior/Kuskokwim/all fish	52
FP21-10 Modify Federal regulations to include a new dip net fishery in the lower Copper River—Sockeye Salmon	Southcentral, Eastern Interior/Copper River/Sockeye Salmon	127
FP21-11 Add a new harvest reporting structure for the upper Copper River—all fish	Southcentral, Eastern Interior/Copper River/all fish	186
FP21-13 Prohibit fishing with dip nets from boats in the upper Copper River—salmon	Southcentral, Eastern Interior/Copper River/salmon	246
FP21-14 Prohibit use of fish finders while fishing from a boat in the upper Copper River—all fish	Southcentral, Eastern Interior/Copper River/all fish	276
FCR21-07 Closure to Federally qualified subsistence users in the Yukon drainage—Arctic Grayling	Eastern Interior, Yukon-Kuskokwim Delta, Western Interior, Seward Peninsula, North Slope/Nome Creek/Arctic Grayling	366
FCR21-08 Closure to Federally qualified subsistence users in Unalaska Lake—salmon	Kodiak-Aleutians/Unalaska Lake/salmon	380
FCR21-09 Closure to Federally qualified subsistence users in Unalaska Bay drainage—salmon	Kodiak-Aleutians/Unalaska Bay drainage/salmon	395

Proposal	Region/Unit/Species	Page
FCR21-11 Closure to Federally qualified subsistence users in the McLees Lake drainage—salmon	Kodiak-Aleutians/Unalaska, McLees lake drainage/salmon	410
FCR21-13 Closure to Federally qualified subsistence users in Russel Creek and Nelson Lagoon salmon	Kodiak-Aleutians/Alaska Peninsula—Russel Creek, Nelson Lagoon/salmon	425
FCR21-16 Closure to Federally qualified subsistence users in the Buskin River—salmon	Kodiak-Aleutians/Kodiak Island—Buskin River/salmon	439
FCR21-18 Closure to Federally qualified subsistence users in the Afognak Bay drainage—salmon	Kodiak-Aleutians/Afognak Bay drainage/salmon	448
FCR21-19 Closure to Federally qualified subsistence users in the Afognak Island drainages—salmon	Kodiak-Aleutians/Afognak Island drainage/salmon	456
RP19-01 Change Moose Pass, Alaska, from Nonrural to Rural	Southcentral/Moose Pass	302

Standard Operating Procedures for Issuance of Subsistence Eligibility Permits and Individual Customary and Traditional Use Determinations¹

The Alaska Region of the National Park Service (NPS) intends to issue National Park/Monument Subsistence Eligibility Permits (sometimes referred to as 13.440 Permits) and Individual Customary and Traditional Use Determinations using the protocol established in this document. A Subsistence Eligibility Permit may be requested for use in conjunction with an existing community or area customary and traditional (C&T) use determination within the relevant park unit, or in combination with a new request for one or more individual C&T use determinations.

National Park/Monument Subsistence Eligibility Permits are issued pursuant to 36 Code of Federal Regulations (CFR) 13.440:

Any rural resident whose primary, permanent home is outside the boundaries of a resident zone of a national park or monument may apply to the appropriate Superintendent pursuant to the procedures set forth in §13.495 for a subsistence permit authorizing the permit applicant to engage in subsistence uses within the national park or monument.

Application procedures for Subsistence Eligibility Permits are specified in 36 CFR 13.495:

(a) Any person applying for the subsistence permit required by §13.440(a), or the exception to the prohibition on aircraft use provided by §13.450(b)(2), shall submit his/her application to the Superintendent of the appropriate national park or monument. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application. Each application must include a statement which acknowledges that providing false information in support of the application is a violation of Section 1001 of Title 18 of the United States Code, and additional statements or documentation which demonstrates that the applicant satisfies the criteria set forth in §13.440(a) for a subsistence permit or §13.450(b)(2) for the aircraft exception, as appropriate. Except in extraordinary cases for good cause shown, the Superintendent shall decide whether to grant or deny the application in a timely manner not to exceed forty-five (45) days following the receipt of the completed application. Should the Superintendent deny the application, he/she shall include in the decision a statement of the reasons for the denial and shall promptly forward a copy to the applicant.

(b) An applicant whose application has been denied by the Superintendent has the right to have his/her application reconsidered by the Alaska Regional Director by contacting the Regional Director within 180 days of the issuance of the denial. The Regional Director may extend the

¹ To comply with requirements of the National Environmental Policy Act (NEPA), parks should consider covering the federal action of determining individual eligibility for subsistence activities with categorical exclusion 3.2(N): Issuance of individual hunting and/or fishing licenses in accordance with state and federal regulations. This CE does not require documentation.

Individual Customary and Traditional Use Process

180-day time limit to initiate a reconsideration for good cause shown by the applicant. For purposes of reconsideration, the applicant shall present the following information:

- (1) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in paragraph (a) of this section;
- (2) The basis for the applicant's disagreement with the Superintendent's findings and conclusions; and
- (3) Whether or not the applicant requests an informal hearing before the Regional Director.

(c) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

Individual Customary and Traditional Use Determinations are made pursuant to 50 CFR 100.16:

- (a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

and 50 CFR 100. 24:

The Federal Subsistence Board has determined that rural Alaska residents of the listed communities, areas, and individuals have customary and traditional use of the specified species on Federal public land in the specified areas. Persons granted individual customary and traditional use determinations will be notified in writing by the Board. The Fish & Wildlife Service and the local NPS Superintendent will maintain the list of individuals having customary and traditional use on National Parks and Monuments. A copy of the list is available upon request. 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.

Request for a National Park/Monument Subsistence Eligibility Permit

1. Applicants may request applications from the relevant park Subsistence Coordinator verbally, in-person, or in writing. The applicant may choose to complete the application with the assistance of the Subsistence Coordinator. Applicants shall acknowledge to the Subsistence Coordinator, either by signing and returning the application, verbally, or both, that he/she understands that providing false information in support of the application is a violation of Section 1001 of Title 18 of the United States Code.
2. The Subsistence Coordinator shall forward a copy of completed applications to the Alaska Region Subsistence Program Manager for archival purposes and entry in the Subsistence Eligibility Permit / Individual C&T tracking log.
3. Upon receiving the completed application, the relevant park Subsistence Coordinator shall schedule an interview with the applicant, either in-person or by phone, to obtain additional information regarding applicant eligibility and existing patterns of subsistence use.
4. Upon completing the interview, the relevant Subsistence Coordinator shall produce a brief written analysis (see attached form) and formulate a recommendation on the request, with justification.
5. The application, analysis, and recommendation shall be forwarded by the relevant Subsistence Coordinator to the Superintendent for review and decision. The Superintendent shall complete the decision form (see attached).
6. A signed copy of the decision form shall be sent to the applicant within 45 days of the receipt of the application² (36 CFR 13.495). The Subsistence Coordinator will coordinate with the applicant and the Superintendent to issue an approved permit with requisite signatures and he/she shall retain a copy. Permits shall follow the standard format for NPS Special Use Permits. The following permit stipulations are recommended, as applicable to the specific park unit, in addition to the standard Special Use Permit stipulations:
 - a. This permit establishes eligibility only for subsistence uses within (National Park or Monument Name). Specific subsistence activities (i.e. house logs, green firewood, cabins, subsistence registration hunts, caches, etc.) may require separate authorization or permits.
 - b. The Permittee must contact the Superintendent if permittee changes his/her permanent residence. The permit may need to be amended to show the current physical address of the permanent residence.
 - c. This permit is void if the Permittee's permanent residence is determined to be "non-rural" by federal regulation.
 - d. The Permittee is subject to other regulatory requirements including, but not limited to, seasons and harvest limits, community and individual customary and traditional determinations, methods and means, etc.
 - e. Only those family members living within the Permittee's household are authorized by this permit for subsistence uses in (National Park or Monument Name). It is the responsibility of the Permittee to notify the Superintendent of changes in the

² Except in extraordinary cases for good cause shown (36 CFR 13.495), including the need to collect additional information.

composition of the household, including additions (through birth, adoption or marriage) or deletions (a family member moving out of the household).

- f. The Permittee is prohibited by federal regulations (36 CFR 13.450) from using aircraft to access the park for the purpose of engaging in subsistence activities. Aircraft access is prohibited for any portion of the access. The regulatory prohibition on aircraft access for subsistence uses in the park does not apply to aircraft access to the Permittee's primary permanent residence.
7. The recommendation, Superintendent decision, and a digital copy of the signed permit (when applicable) shall be forwarded to the Alaska Region Subsistence Program Manager for entry into the Subsistence Eligibility Permit / Individual C&T tracking log.
8. Pursuant to 36 CFR 13.495 (b) an applicant whose application has been denied by the Superintendent has the right to have his/her application reconsidered by the Alaska Regional Director by contacting the Regional Director within 180 days of the issuance of the denial. The Regional Director may extend the 180-day time limit to initiate a reconsideration for good cause shown by the applicant.

Note: Permits will be issued for the lifetime of the applicant so long as they retain their eligibility as a Federally qualified subsistence user. Reviews of permit eligibility shall be made periodically by the Subsistence Coordinator, at least every five years.

Request for an Individual C&T Use Determination

1. Applicants may request applications from the relevant park Subsistence Coordinator verbally, in-person, or in writing. The applicant may choose to complete the application with the assistance of the Subsistence Coordinator. Applicants shall acknowledge to the Subsistence Coordinator, either by signing and returning the application, verbally, or both, that he/she understands that providing false information in support of the application is a violation of Section 1001 of Title 18 of the United States Code.
2. The Subsistence Coordinator shall forward a copy of completed applications to the Alaska Region Subsistence Program Manager for archival purposes and entry in the Subsistence Eligibility Permit / Individual C&T tracking log.
3. Upon receiving the completed application, the relevant park Subsistence Coordinator shall schedule an interview, either in-person or by phone, to obtain additional information regarding applicant eligibility and existing patterns of subsistence use.
4. The relevant Subsistence Coordinator will analyze responses on the application and in the interview to assess eligibility and to formulate a recommendation on an existing pattern of use of species requested for an individual C&T use determination.
5. The written analysis and recommendation, with justification (see attached form), shall be sent to the Alaska Region Subsistence Program Manager for archival purposes and entry in the Subsistence Eligibility Permit / individual C&T tracking log. Analyses shall follow the guidance for C&T use determination analyses in the most recent revision of the Federal Subsistence Management Program's Technical Writing Guide, as applicable to individual C&T use determinations.
6. A summary of the request and analysis will be provided by the relevant Subsistence Coordinator to the affected Subsistence Resource Commission (SRC) at their first meeting following completion of the interview. The SRC will make a recommendation, with justification, on issuance of the individual C&T use determination (see attached decision form).
7. The Subsistence Coordinator shall forward the SRC recommendation and justification to the Alaska Region Subsistence Program Manager for archival purposes and entry into the Subsistence Eligibility Permit / Individual C&T tracking log.
8. The Alaska Region Subsistence Program Manager will provide the individual C&T use determination application, analysis, and recommendations to the NPS Regional Director or his/her designee to make a final individual C&T use determination (see attached decision form).
9. The Alaska Region Subsistence Program Manager will draft a decision letter on behalf of the NPS Regional Director. The NPS Regional Director will review and sign the letter, which will be digitized, archived, and forwarded to the applicant, with copies to the Office of Subsistence Management, the relevant park Subsistence Coordinator, and the Superintendent.
10. Once received, the Office of Subsistence Management will forward the decision letter to the chairs of the affected Regional Advisory Councils. Councils will be informed of any changes to individual C&Ts at the council's next regularly scheduled public meeting.

**U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
ALASKA REGION**

**NATIONAL PARK/MONUMENT SUBSISTENCE ELIGIBILITY PERMIT* & INDIVIDUAL CUSTOMARY
AND TRADITIONAL USE DETERMINATION APPLICATION**

*(*For determination of subsistence eligibility under the provisions of 36 CFR 13.440.)*

I am requesting (Choose One):

- National Park/Monument Subsistence Eligibility Permit ONLY
- Individual Customary and Traditional Use Determination ONLY³
- National Park/Monument Subsistence Eligibility Permit AND Individual Customary and Traditional Use Determination

If requesting a National Park/Monument Subsistence Eligibility Permit, my eligibility is based on:

- A pattern of subsistence use in the park unit for which I am seeking a permit
- A pattern of subsistence use in a park OTHER THAN the park unit for which I am seeking a permit
 - Please explain: _____

If requesting an individual customary and traditional use determination, for what species and areas (units or subunits)?

Name of National Park or Monument: _____

1. Name of applicant (First, Middle, Last):

³ The Federal Subsistence Board (FSB) policy requires applicants for Individual Customary and Traditional Use Determinations to either reside in a resident zone community or hold a 13.440 Subsistence Eligibility Permit. This permit can be applied for concurrently.

2. Mailing address:

3. Location/physical address of primary permanent residence:

- Phone number: _____

-Email address: _____

- What month and year did your residence at this location start?

Month _____ Year _____

- During what part of the year do you reside at this residence (give dates)? _____

4. Location/physical address of other residences, if any:

- During what part of the year do you reside at these residences (give dates)?

Individual Customary and Traditional Use Process

5. What physical address is currently indicated on your:

- Alaska hunting and/or fishing license

- Driver's license

- Tax returns

- Voter registration

- Alaska Permanent Fund Dividend application

6. Have you, or any persons living in your household on a permanent basis, engaged in subsistence within this park or monument? Yes _____ No _____

- Specific location of use? _____

- Was aircraft used as a means of access to conduct such activities? Yes _____ No _____

- Type of subsistence use (hunting, trapping, fishing, gathering, etc.)? _____

- Specific resources harvested (caribou, moose, salmon, furbearers, timber, etc.)? _____

- Name of permanent member(s) of household who has hunted, trapped, fished, gathered, etc. in the park or monument? _____

- Relationship of permanent member(s) of household noted above to you (self, father, mother, brother, etc.)? _____

- Earliest year in which use took place? _____

- Most recent year in which use took place? _____

- Frequency of use (yearly, every other year, etc.)? _____

7. Other comments/additional pertinent information in support of your permit application:

DRAFT

COMPLETE THE FOLLOWING ONLY IF REQUESTING INDIVIDUAL CUSTOMARY AND TRADITIONAL USE DETERMINATION(S)

1. For what species are you requesting an individual customary and traditional use determination?

2. Please describe your pattern of subsistence use of the species listed above. What years have you harvested or attempted to harvest them? In which months or seasons do you harvest them?

3. What methods and means of harvest do you use for these species?

4. Where do you harvest these resources? Please provide locations, as specifically as possible, including identifiable landmarks or geographic descriptions. How do you access these harvest locations? What means of transportation do you use?

5. How do you process these resources and preserve them for future use?

6. How have you learned about hunting, trapping and fishing – both skills and the values associated with the uses?

7. Do you share what you know about hunting, trapping and fishing with others? If so, how?

8. Do you share the resources that you harvest with others in your community or family? Please describe any sharing networks in which you are involved.

9. Please describe your pattern of subsistence use more generally – which resources to you harvest or seek to harvest on a regular basis? What role do these resources and activities play in your way of life – economically, nutritionally, culturally, socially?

TO BE COMPLETED BY ALL APPLICANTS

1. Please provide the name, address and telephone number of another person, other than a member of your household, who can verify this information:

Name: _____

Address: _____

Telephone Number: _____

I certify that the statements made herein are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I also understand that Title 18 U.S.C § 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

Signature of applicant: _____

Date: _____

DRAFT

**U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
ALASKA REGION**

**NATIONAL PARK/MONUMENT SUBSISTENCE ELIGIBILITY PERMIT* & INDIVIDUAL CUSTOMARY
AND TRADITIONAL USE DETERMINATION ANALYSIS**

*(*For determination of subsistence eligibility under the provisions of 36 CFR 13.440.)*

To be completed by the relevant Subsistence Coordinator:

Date:

Applicant Name:

Analyst Name:

This analysis is in response to the following request (Choose One):

- Subsistence Eligibility Permit ONLY
- Individual Customary and Traditional Use Determination ONLY
- Subsistence Eligibility Permit AND Individual Customary and Traditional Use Determination

Please type a brief summary of the applicant's reported subsistence use pertaining to the request, as determined from information provided on the application and during the interview:

For a National Park/Monument Subsistence Eligibility Permit, the analysis should address the following topics:

1. Synopsis of the applicant's pattern of use⁴ specifically in the national park or monument for which the permit is requested, including the following:
 - a. Species harvested,
 - b. Specific locations where the use occurred,
 - c. Years during which the subsistence uses took place, and
 - d. Whether aircraft was used for access.
2. Does the pattern of use begin prior to the signing of the Alaska National Interest Lands Conservation Act (ANILCA)?

⁴ There may be variation by region and/or park on what constitutes a "pattern of use." Generally, there should exist evidence of repeated past attempts to access and harvest subsistence resources within the boundaries of the park or monument. SRCs may be consulted in defining a "pattern of use" for their region.

3. Does the applicant have a pattern of use established while as a resident of a resident zone community after the passage of ANILCA?

For an Individual C&T use determination, the analysis should address the following questions:

1. Does the applicant have a long-term, consistent pattern of use of these resources, excluding interruptions beyond their control? Please explain.
2. Does the applicant have a pattern of use for these resources recurring in specific seasons for many years? Please explain.
3. Does the applicant have a pattern of use of these resources consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics? Please explain.
4. Does the applicant exhibit consistent harvest and use of fish or wildlife as related to past methods and means of taking: near, or reasonably accessible from the park unit? Please explain.
5. Does the applicant exhibit 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? Please explain.
6. Does the applicant exhibit a pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation? Please explain.
7. Does the applicant exhibit a pattern of use in which the harvest is shared or distributed within a definable community of persons? Please explain.
8. Does the applicant exhibit 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 your household? Please explain.

The analysis should include an integrated discussion of the eight factors. A factor-by-factor discussion is not required in the analysis and it is also not necessary that all eight factors be addressed to demonstrate a pattern of use. The eight factors provide a framework for examining the pattern of use of a resource. There are regional, cultural and temporal variations and the application of the eight factors will likely vary by region and by resource depending on actual patterns of use. The goal of customary and traditional use determination analyses is to recognize customary and traditional uses in the most inclusive manner possible.

As a result of this analysis (Select All that Apply):

- There is substantial evidence to support the issuance of a Subsistence Eligibility Permit
- There is substantial evidence to support the issuance of an Individual Customary and Traditional Use Determination for (species and location) _____

Individual Customary and Traditional Use Process

- There is **NOT** substantial evidence to support the issuance a Subsistence Eligibility Permit
- There is **NOT** substantial evidence to support the issuance an Individual Customary and Traditional Use Determination for (species and location) _____

Brief Justification:

Signature of Analyst: _____ Date: _____

DRAFT

U.S. DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

ALASKA REGION

SUBSISTENCE ELIGIBILITY PERMIT* DECISION

*(*For determination of subsistence eligibility under the provisions of 36 CFR 13.440.)*

To be completed by the relevant Superintendent:

Applicant Name:

Name of Park or Monument for which permit is requested:

Request Date:

After reviewing the request, evaluation form, staff analysis and recommendation, I have decided to (select one):

- Issue a Subsistence Eligibility Permit to the applicant
- Deny a Subsistence Eligibility Permit to the applicant

Superintendent Signature: _____ Date: _____

NOTE: Pursuant to 36 CFR 13.495 (b) an applicant whose application has been denied by the Superintendent has the right to have his/her application reconsidered by the Alaska Regional Director by contacting the Regional Director within 180 days of the issuance of the denial. The Regional Director may extend the 180-day time limit to initiate a reconsideration for good cause shown by the applicant.

**U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
ALASKA REGION**

INDIVIDUAL CUSTOMARY AND TRADITIONAL USE DETERMINATION

SRC RECOMMENDATION

To be completed by the relevant Subsistence Coordinator:

Date of Formal Action:

Proponent Name:

Proponent Request:

Affected SRC:

This SRC has determined that (select all that apply):

- There is sufficient evidence to support an individual customary and traditional use determination for (name) for (species) in (unit(s)/subunit(s))
- There is NOT sufficient evidence to support an individual customary and traditional use determination for (name) for (species) in (unit(s)/subunit(s))

Brief justification for above decision:

Signature of SRC Chair _____ Date _____

**U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
ALASKA REGION**

INDIVIDUAL CUSTOMARY AND TRADITIONAL USE DETERMINATION

NPS DECISION

To be completed by the Alaska Regional Director or his/her designee:

Proponent Name:

Request Date:

After reviewing the request, evaluation form, staff analysis and recommendation, and affected SRC recommendation(s), I have decided:

- that there is sufficient evidence to support an individual customary and traditional use determination for (name) for (species) in (unit(s)/subunit(s))
- that there is **NOT** sufficient evidence to support an individual customary and traditional use determination for (name) for (species) in (unit(s)/subunit(s))

Regional Director or Designee Signature: _____ Date: _____

Regional Director, Alaska Region
National Park Service
240 W. 5th Ave.
Anchorage, AK 99501

Dear Regional Director:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Alaska Regional Director of the National Park Service (NPS) to adopt individual customary and traditional use (C&T) determinations for those individuals authorized to engage in subsistence uses in a national park or monument, including those holding a NPS subsistence permit issued pursuant to 36 CFR 13.440 and those living within a Resident Zone Community. This delegation only applies to subsistence uses of fish and wildlife in national parks and monuments subject to Alaska National Interest Lands Conservation Act (ANILCA) Title VIII jurisdiction.

DELEGATION OF AUTHORITY

- 1. Delegation:** The Alaska Regional Director of the National Park Service, or his/her designated representative, is hereby delegated authority to adopt individual C&T determinations for those individuals issued a NPS §13.440 subsistence permit, or living within a Resident Zone Community, as outlined under the **Scope of Delegation**. Individual C&T is governed by Federal regulation at 36 CFR 242.16, 36 CFR 242.24, 50 CFR 100.16, and 50 CFR 100.24. National Park Service subsistence permits are governed by Federal regulation at 36 CFR 13.440.
- 2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which allow the Board to delegate certain management decisions to agency field officials within a framework established by the Board. Authority to recognize which rural Alaska areas or communities have customary and traditional subsistence uses of specific fish and wildlife populations is established under 36 CFR 242.10(d)(4)(iii) and 50 CFR 100.10(d)(4)(iii).
- 3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the following authorities within the limits set by regulation at 36 CFR 242.16, 50 CFR 100.16, 36 CFR 242.24, and 50 CFR 100.24:
 - To adopt individual C&T determinations for those individuals issued a NPS §13.440 subsistence permit or those living within a Resident Zone Community.

Individual C&T determinations may be issued only to holders of subsistence permits and are limited to national parks and monuments, as described in the Federal regulation at 36 CFR 242.16, 50 CFR 100.16, and 36 CFR 13.440.

- 4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

5. Guidelines for Delegation: You will become familiar with the requirements for issuing individual C&T determinations. You will develop a process to evaluate individual C&T applications that incorporates the factors exemplifying customary and traditional use, as described at 36 CFR 100.16 and 50 CFR 100.26. You will provide subsistence users in the region a local point of contact to facilitate communication about this process and its requirements.

You will issue decisions and notify C&T applicants in a timely manner. You will notify the Board, the Interagency Staff Committee, the Office of Subsistence Management and the appropriate Federal Subsistence Regional Advisory Council(s) about new individual C&T determinations, and you will maintain a list of existing individual C&T determinations for each park unit.

6. Support Services: Administrative support will be provided by the Office of Subsistence Management.

Sincerely,

Anthony Christianson
Chair

Enclosures

cc: Federal Subsistence Board
Interagency Staff Committee
Administrative Record

Comparison of Current and Proposed Review Processes for National Park Service Individual Customary and Traditional Use Determinations

Step in process	Current Process	Proposed Process
Application window	Narrow window during call for regulatory proposals every two years	Open continuously
Application review	Proposals may be invalidated if incomplete or 13.440 permit is needed	NPS staff interview the applicant to ensure that all information regarding 8 factors is documented and process 13.440 permit application if needed
Proposal analysis	Follows standard format for C&T proposals using 8 factors. Analysis is prepared by NPS staff in combination with OSM staff	Follows standard format for C&T proposals using 8 factors. Analysis is prepared NPS staff
Advisory committee review	Federal Subsistence Regional Advisory Council	National Park Service Subsistence Resource Commission
Decisionmaker	Federal Subsistence Board	NPS Alaska Regional Director
Decision timeline	Fixed schedule -- at annual regulatory meeting	Flexible schedule -- following receipt of SRC recommendation

STAFF ANALYSIS
TEMPORARY SPECIAL ACTION
WSA20-07

ISSUES

Temporary Special Action request WSA20-07, submitted by the Office of Subsistence Management (OSM), requests an exception to 50 CFR 100.26(e)(2) for the Ahtna Inter-Tribal Resource Commission (AITRC)-administered community harvest system for moose and caribou in Units 11, 12, and 13 for the 2020-2022 regulatory cycle.

DISCUSSION

50 CFR 100.26(e)(2) states, “. . . Except . . . as otherwise proved for by this part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.” This means that the harvest limits of all residents of a community are affected whether or not they choose to participate in the community harvest system. For example, if one moose is harvested under the community harvest system, that would count against the individual harvest limits of every community member who chooses not to participate in the community harvest system. OSM does not consider this to be the intent of the regulation. People should not have additional restrictions placed on them just because they live in a community with a community harvest system in which they do not want to participate.

OSM has recently been working with AITRC, the National Park Service and the Bureau of Land Management to develop a framework for a community harvest system for moose and caribou in Units 11, 12 and 13 for the 2020/21 regulatory year as directed by the Federal Subsistence Board (Board). In developing this framework, OSM realized the conflict with 50 CFR 100.26(e)(2) and the need to provide an exception under unit-specific regulations. As moose and caribou seasons in Unit 13 opened Aug. 1, 2020, this exception is needed as soon as possible.

OSM also plans to submit a proposal to clarify 50 CFR 100.26(e)(2) during the next call for wildlife proposals in 2021.

The applicable Federal regulations are found in 36 CFR 242.19(b) and 50 CFR 100.19(b) (Temporary Special Actions) and state that:

. . . After adequate notice and public hearing, the Board may temporarily close or open public lands for the taking of fish and wildlife for subsistence uses, or modify the requirements for subsistence take, or close public lands for the taking of fish and wildlife for nonsubsistence uses, or restrict take for nonsubsistence uses.

Existing Federal Regulation

Note: While not codified, these are the regulations for the 2020-2022 regulatory cycle as approved by the Federal Subsistence Board on July 16, 2020 via Wildlife Special Action WSA20-02.

§ _____.26(n)(11)(iii) Unit 11—Unit specific regulations

(A) For Federally qualified subsistence users living within the Ahtna traditional communities of Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina, a community harvest system for moose is authorized on Federal public lands within Unit 11, subject to a framework to be established by the Federal Subsistence Board.

§ _____.26(n)(12)(i) Unit 12—Unit specific regulations

(D) For Federally qualified subsistence users living within the Ahtna traditional communities of Chistochina and Mentasta Lake, a community harvest system for caribou is authorized on Federal public lands within the customary and traditional use determination area of Unit 12, subject to a framework to be established by the Federal Subsistence Board.

(E) For Federally qualified subsistence users living within the Ahtna traditional communities of Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina, a community harvest system for moose is authorized on Federal public lands within the customary and traditional use determination area of Unit 12 remainder, subject to a framework to be established by the Federal Subsistence Board.

(F) For Federally qualified subsistence users living within the Ahtna traditional communities of Chistochina and Mentasta Lake, a community harvest system for moose is authorized on Federal public lands within the customary and traditional use determination area of Unit 12, that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake and Unit 12, that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian Border, subject to a framework to be established by the Federal Subsistence Board.

§ _____.26(n)(13)(iii) Unit 13—Unit specific regulations

(C) For Federally qualified subsistence users living within the Ahtna traditional communities of Cantwell, Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina, a community harvest system for caribou and moose is authorized on Federal public lands within Unit 13, subject to a framework to be established by the Federal Subsistence Board.

Proposed Federal Regulation

§ _____.26(n)(11)(iii) Unit 11—Unit specific regulations

(A) For Federally qualified subsistence users living within the Ahtna traditional communities of Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina, a

*community harvest system for moose is authorized on Federal public lands within Unit 11, subject to a framework to be established by the Federal Subsistence Board. **Animals taken by those opting to participate in this community harvest system do not count toward the harvest limits of any individuals who do not opt to participate in this community harvest system.***

§ _____.26(n)(12)(i) Unit 12—Unit specific regulations

*(D) For Federally qualified subsistence users living within the Ahtna traditional communities of Chistochina and Mentasta Lake, a community harvest system for caribou is authorized on Federal public lands within the customary and traditional use determination area of Unit 12, subject to a framework to be established by the Federal Subsistence Board. **Animals taken by those opting to participate in this community harvest system do not count toward the harvest limits of any individuals who do not opt to participate in this community harvest system.***

*(E) For Federally qualified subsistence users living within the Ahtna traditional communities of Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina, a community harvest system for moose is authorized on Federal public lands within the customary and traditional use determination area of Unit 12 remainder, subject to a framework to be established by the Federal Subsistence Board. **Animals taken by those opting to participate in this community harvest system do not count toward the harvest limits of any individuals who do not opt to participate in this community harvest system.***

*(F) For Federally qualified subsistence users living within the Ahtna traditional communities of Chistochina and Mentasta Lake, a community harvest system for moose is authorized on Federal public lands within the customary and traditional use determination area of Unit 12, that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake and Unit 12, that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian Border, subject to a framework to be established by the Federal Subsistence Board. **Animals taken by those opting to participate in this community harvest system do not count toward the harvest limits of any individuals who do not opt to participate in this community harvest system.***

§ _____.26(n)(13)(iii) Unit 13—Unit specific regulations

*(C) For Federally qualified subsistence users living within the Ahtna traditional communities of Cantwell, Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina, a community harvest system for caribou and moose is authorized on Federal public lands within Unit 13, subject to a framework to be established by the Federal Subsistence Board. **Animals taken by those opting to participate in this community harvest system do not count toward the harvest limits of any individuals who do not opt to participate in this community harvest system.***

Relevant Federal Regulation

§ ____ .26(e)(2)

An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to § ____ .10(d)(5)(iii) or as otherwise provided for by this part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.

Extent of Federal Public Lands

Unit 11 is comprised of approximately 87% Federal public lands and consist of 84% National Park Service (NPS) managed lands, and 3% U.S. Forest Service (USFS) managed lands.

Unit 12 is comprised of approximately 60% Federal public lands and consist of 48% NPS managed lands, 11% U.S. Fish and Wildlife Service (USFWS) managed lands, and 1% Bureau of Land Management (BLM) managed lands.

Unit 13 is comprised of approximately 12% Federal public lands consist of 6% NPS managed lands, 4% BLM managed lands, and 2% USFWS managed lands.

Customary and Traditional Use Determinations

Caribou

Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake have a customary and traditional use determination for caribou in Unit 12.

Residents of Units 11, 12 (along the Nabesna Road and Tok Cutoff Road, mileposts 79-110), 13, 20D (excluding residents of Fort Greely), and Chickaloon have a customary and traditional use determination for caribou in Unit 13B.

Residents of Units 11, 12 (along the Nabesna Road and Tok Cutoff Road, mileposts 79-110), 13, Chickaloon, Dot Lake, and Healy Lake have a customary and traditional use determination to harvest caribou in Unit 13C.

Residents of Units 11, 12 (along the Nabesna Road), 13, and Chickaloon have a customary and traditional use determination to harvest caribou in Unit 13A and 13D.

Residents of Units 11, 12 (along the Nabesna Road), 13, Chickaloon, McKinley Village, and the area along the Parks Highway between mileposts 216-239 (excluding the residents of Denali National Park Headquarters) have a customary and traditional use determination to harvest caribou in Unit 13E.

Moose

Residents of Units 11, 12, 13A, 13B, 13C, and 13D, Chickaloon, Dot Lake, and Healy Lake have a customary and traditional use determination for moose in Unit 11 north of the Sanford River.

Residents of Units 11, 13A, 13B, 13C, and 13D, and Chickaloon have a customary and traditional use determination for moose in Unit 11 remainder.

Residents of Units 12, 13C, Dot Lake, and Healy Lake have a customary and traditional use determination for moose in Unit 12, that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake.

Residents of Units 12, 13C, and Healy Lake have a customary and traditional use determination for moose in Unit 12, that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border.

Rural residents of Units 11 north of the 62nd parallel, 12, 13A, 13B, 13C, 13D and residents of Chickaloon, Dot Lake, and Healy Lake have a customary and traditional use determination for moose in Unit 12 remainder.

Residents of Unit 13, Chickaloon and Slana have a customary and traditional use determination for moose in Units 13A and 13D.

Residents of Units 13 and 20D (excluding residents of Fort Greely) and Chickaloon, and Slana have a customary and traditional use determination for moose in Unit 13B.

Residents of Units 12 and 13, Chickaloon, Healy Lake, Dot Lake, and Slana have a customary and traditional use determination for moose in Unit 13C.

Residents of Unit 13, Chickaloon, McKinley Village, Slana, and the area along the Parks Highway between mileposts 216 and 239 (excluding residents of Denali National Park headquarters) have a customary and traditional use determination for moose in Unit 13E.

Under the guidelines of ANILCA, National Park Service regulations identify qualified local rural subsistence users in National Parks and Monuments by: 1) identifying resident zone communities which include a significant concentration of people who have customarily and traditionally used subsistence resources on park lands; and 2) identifying and issuing subsistence use (13.440) permits to individuals residing outside of the resident zone communities who have a personal or family history of subsistence use. In order to engage in subsistence in Denali National Park or Wrangell-St. Elias National Park, the National Park Service requires that subsistence users either live within the park's resident zone (36 CFR 13.430, 36 CFR 13.902, 36 CFR 13.1902) or have a subsistence permit (36 CFR 13.440) issued by the park superintendent.

Regulatory History

During the 2018/20 regulatory cycle, AITRC submitted Proposals WP18-17, WP18-18, and WP18-19 concerning moose and caribou in Units 11 and 13. Proposal WP18-17 requested an extension of the moose season in Unit 11 and delegation of authority to AITRC to issue Federal registration permits to its tribal members.

Proposal WP18-18 requested that the moose season on Federal public lands in Unit 13E and Unit 13 remainder be changed from Aug. 1-Sept. 20 to Aug. 1-Mar. 31. In addition, AITRC requested authorization to distribute Federal registration permits (FM1301) to Federally qualified Tribal members only and that the BLM and Denali National Park and Preserve distribute (FM1301) permits to other Federally qualified subsistence users. AITRC later withdrew Proposal WP18-18.

Proposal WP18-19 requested that AITRC be allowed to distribute Federal registration permits to Ahtna Tribal members for the Federal caribou season in Units 13A, 13B, and 13 remainder. In addition, the proponent requested that the Ahtna Advisory Committee be added to the list of agencies and organizations consulted by the BLM, Glennallen Field Office Manager, when announcing the sex of caribou taken in Unit 13A and 13B each year.

During its November 6-7, 2017 meeting, the Southcentral Alaska Subsistence Regional Advisory Council (Council) discussed issues related to AITRC's proposals requesting authority to issue Federal registration permits for caribou and moose in Units 11 and 13. In order alleviate legal concerns about non-Federal entities issuing Federal permits, the Council adopted a modification of Proposal WP18-19 to establish a community harvest system on Federal public lands for caribou and moose in Unit 11 and Unit 13 that would be administered by AITRC and open to Federally qualified users living within the Ahtna traditional use territory.

The Council, along with representatives of AITRC and staff from OSM, discussed possible alternatives to what was originally requested in WP18-19 to alleviate legal concerns associated with AITRC issuing Federal registration permits. During this discussion, a modification was drafted to allow for a hunt via a community harvest system for caribou and moose in Units 11 and 13. In an effort to consolidate the three proposals submitted by AITRC (WP18-17, WP18-18, and WP18-19), hunts for moose in Unit 11 and for caribou and moose in Unit 13 were added to the community harvest system under consideration in Proposal WP18-19.

At its April 2018 meeting, the Board voted to reject Proposal WP18-17 and to defer WP18-19 to its August 2018 work session, pending development of a framework for a community harvest system. In May 2018, AITRC submitted a special action request with a community harvest framework, which after clarification included only Federally-qualified Tribal members living in Ahtna traditional territory. This request was rejected due to its invalid eligibility requirements.

At its August 2018 work session, the Board agreed to meet with AITRC and to present a community harvest framework for discussion purposes. This framework was developed and presented to the Board at its April 2020 meeting.

In April 2020, the Board adopted deferred Proposal WP18-19 with modification. The modification was to name individual communities within the Ahtna traditional use territory authorized to harvest caribou and moose in Unit 13 and moose in Unit 11 as part of a community harvest system, subject to a framework established by the Board under unit specific regulations.

In July 2020, the Board approved WSA20-02 with modification. WSA20-02 requested the development of an AITRC-administered community harvest system for moose and caribou in Units 11, 12, and 13 for the eight Ahtna traditional communities for the 2020/21 regulatory year. The modification was to 1) name individual communities authorized to participate in the community harvest system on Federal public lands in Units 11, 12, and 13, specifically the eight Ahtna traditional communities of Cantwell, Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina; 2) define the geographic boundaries of eligible communities as the most recent Census Designated Places (CDPs) established by the United States Census Bureau; 3) extend this action through the end of the wildlife regulatory cycle, June 30, 2022; 4) specify that harvest reporting will take the form of reports collected from hunters by AITRC and submitted directly to the land managers and OSM, rather than through Federal registration permits, joint State/Federal registration permits, or State harvest tickets; and 5) set the harvest quota for the species and units authorized in the community harvest system as the sum of individual harvest limits for those opting to participate in the system.

Current Events

A public hearing was held on August 13, 2020 via teleconference to accept public testimony on WSA20-07. Two people testified in support of the request. The executive director of AITRC commented that she thought this issue had been thoroughly addressed during the Board's April 2020 meeting and July 16 teleconference, but if this request is necessary to implement the community hunt, then she is in full support of it. A member of the public also supported the request, so that the community hunt could be implemented.

ADF&G submitted written comments on WSA20-07 (**Appendix 1**). ADF&G commented that they do not oppose WSA20-07, but expressed concerns with the AITRC-administered community harvest system.

Effects of the Proposal

If WSA20-07 is approved, harvests by those opting to participate in the AITRC-administered community harvest system will not count toward the harvest limits of any individuals who do not opt to participate in that community harvest system. This would allow AITRC to effectually implement their community harvest system as approved by the Board without impacting residents of these communities who choose not to participate in the community harvest system.

If WSA20-07 is not approved, any harvests under the community harvest system would count against the individual harvest limits of those community members who did not opt to participate in the community harvest system. As individual harvest limits for moose are one bull, as soon as a single bull is harvested under the community hunt, the individual harvest limits for all community members who did not opt to participate in the community hunt are exhausted. While this is the plain language

read of 50 CFR 100.26(e)(2), OSM does not consider it to be the intent of this regulation. This also raises law enforcement concerns over the harvest limits of community members who opt not to participate in the community harvest system.

OSM CONCLUSION

Support Wildlife Special Action Request WSA20-07.

Justification

Providing an exception to 50 CFR 100.26(e)(2) for the AITRC-administered community harvest system, allows AITRC to effectively administer the recently approved community hunts in accordance with existing Federal regulations. It also prevents unintentional and unnecessary restrictions from being placed on any community members who choose not to participate in the community harvest system.

INTERAGENCY STAFF COMMITTEE RECOMMENDATION

Approve Temporary Special Action request WSA20-07 to provide an exception to 50 CFR 100.26(e)(2) for the Ahtna Inter-Tribal Resource Commission (AITRC)-administered community harvest system for moose and caribou in Units 11, 12, and 13 for the 2020-2022 regulatory cycle.

Justification

The Interagency Staff Committee (ISC) concurs with the OSM staff analysis and justification.

Appendix 1



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

Department of Fish and Game

OFFICE OF THE COMMISSIONER
Headquarters Office

1255 West 8th Street
P.O. Box 115526
Juneau, Alaska 99811-5526
Main: 907.465.6136
Fax: 907.465.2332

MEMORANDUM

TO:	Anthony Christianson, Chair Federal Subsistence Board	DATE:	August 13, 2020
FROM:	Ben Mulligan <i>BJM</i> Deputy Commissioner	PHONE:	267-2190
		SUBJECT:	Wildlife Special Action 20-07

The Alaska Department of Fish and Game (ADF&G) has reviewed Wildlife Special Action WSA20-07 and does not oppose this particular modification being proposed by the Office of Subsistence Management (OSM). Temporary Special Action Request WSA20-07, submitted by OSM, requests an exception to 50 CFR 100.26(e)(2) for the Ahtna Intertribal Resource Commission (AITRC) – administered community harvest systems for moose and caribou in Units 11, 12, and 13 for the 2020-2022 regulatory cycle. If implemented as stated by OSM this request will ensure that animals taken by those opting to participate in this community harvest system do not count toward the harvest limits of any individuals who do not opt to participate in this community harvest system.

After a more thorough examination of the law ADF&G has concerns over the community harvest system being implemented. We cannot find where Congress authorized the Federal Subsistence Board the ability to delegate administration of a federal subsistence hunt to a tribe or nonprofit organization, or to delegate the authority to determine who is authorized to hunt to a tribe or nonprofit organization, or to limit a hunt to a tribe or nonprofit organization. This system also appears to be inconsistent with ANILCA, as it excludes some rural communities who should be eligible to participate in this community hunt but cannot because they are simply not identified as a community in the Ahtna traditional territory. Some communities can be identified as being within this area; however, are excluded from this community harvest system even when they have a customary and traditional use determination for caribou and moose. Any system put into place should be fair and equitable to federal subsistence hunters in the area.

Thank you for the opportunity to provide comments into the federal subsistence process.

Cc: Eddie Grasser, Director, Division of Wildlife Conservation
Lisa Olson, Operations Manager, Subsistence Section
Cheryl Brooking, Assistant Attorney General, Department of Law
George Pappas, State Liaison, Office of Subsistence Management

AITRC Community Harvest System Framework

This document describes the framework for the community harvest system administered by the Ahtna Intertribal Resource Commission (AITRC), identifies Federal agency points of contact, and describes AITRC's responsibilities as the community harvest system administrator.

1. Who is eligible to register in the AITRC-administered community harvest system?

All Federally qualified individuals whose primary permanent residence is within any of the eight named communities – Cantwell, Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina – are eligible to register in the community harvest system. The only criteria for determining eligibility to register in the community harvest system are Federal qualification and the location of the applicant's primary permanent residence.

2. How is community residency determined?

Eligibility to participate in Federal subsistence harvest opportunities is based on the physical location of one's primary permanent residence. The most recent census designated place (CDP) boundaries drawn by the US Department of Commerce, Bureau of the Census, will be used to determine community boundaries. Maps showing the location of these boundaries are available online (www.ahtnatribal.org/harvest) and from AITRC.

3. How do I register for the community harvest system?

Contact the community harvest system administrator, the Ahtna Intertribal Resource Commission, at (907) 822-4466 or harvest@ahtnatribal.org, or visit their office at Mile 187 Glenn Highway to register.

4. Am I required to register for the community harvest system if I live in one of the eligible communities?

No. Registration in the community harvest system is optional for Federally qualified residents of the eligible communities. You may register in the community harvest system for moose and/or caribou. You may choose either to register in the community harvest system or to participate in hunts under the regular Federal subsistence regulations applicable to those areas (see question 6).

5. If I register for the community harvest system, may I participate in other Federal subsistence hunts?

Yes. You may participate in Federal subsistence hunts that do not overlap with the species and units governed by the community harvest system for which you have registered.

6. What lands are included in the community harvest system?

The community harvest system applies to all Federal public lands open for subsistence uses in Units 11, 12 and 13, subject to restrictions in question 9. (The lands included in the community harvest system are the same lands that are included in a regular Federal subsistence hunt.)

7. What seasons apply to registrants in the community harvest system?

The seasons for the community harvest system are the same as those that apply to people hunting under the existing Federal regulations for those areas. Refer to the Federal subsistence regulations booklet for more details.

8. What is the community harvest quota for the AITRC-administered community harvest system?

The community harvest quota for the AITRC-administered community harvest system is the sum of individual harvest limits for the included species and hunt areas that otherwise would have been available to community harvest system registrants had they chosen to hunt under the regular Federal Subsistence hunting regulations.

9. If I register in the community harvest system, where am I allowed to hunt?

- Community harvest system registrants may only hunt on Federal public lands within Units 11, 12, and 13 where their community or area of permanent residence has a customary and traditional use determination established by the Federal Subsistence Board for the species to be harvested. Refer to the Federal subsistence regulations booklet for more details.
- Additionally, National Park Service regulations limit hunting on lands designated as National Parks (but not National Preserves) to people who live in resident zone communities, live within the National Park, or hold a subsistence eligibility permit issued pursuant to 36 Code of Federal Regulations (CFR) 13.440. This means that only residents of Cantwell may hunt in that portion of Unit 13E that falls within Denali National Park and only residents of Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina may hunt within Wrangell-St. Elias National Park.

10. Is a hunting license required to register in the community harvest system?

Persons 18 years of age or older must hold a current State of Alaska resident hunting license in order to register for the community harvest system. A hunting license is not required for those less than 18 years old. Registrants 60 years of age and older or disabled veterans may have a permanent ID card issued by the Alaska Department of Fish and Game instead of an annual hunting license.

11. Are any other Federal or State registration permits or harvest tickets required?

No. Registrants in the community harvest system will receive a hunt registration and, if they choose to hunt, a harvest report from AITRC. Only the community harvest system registration and harvest report are required.

12. Can registrants in the community harvest system hunt for moose or caribou under State of Alaska regulations? And if so, do any special rules apply?

Registration in the community harvest system does not preclude someone from hunting moose or caribou under State of Alaska regulations; however, any moose or caribou harvested by community harvest system registrants under State regulations would count against the community harvest system quota. Community harvest system registrants who harvest a moose or caribou under State regulations must submit the required State harvest report to the State and also must submit their AITRC-issued community harvest report to AITRC about the harvest under State regulations for inclusion in the harvest quota calculation within 5 days of harvest.¹

13. What are the responsibilities of registrants in the community harvest system?

Registrants must carry their individual hunt registration while hunting. A separate AITRC-issued harvest report form is required and must be in the hunter's possession for each animal harvested. When an animal is harvested, the date of harvest should be marked on the form before leaving the field. Registrants are required to submit harvest reports to AITRC on the form provided within 5 days of a successful harvest or within 15 days of the end of the season if unsuccessful.

Upon registration, registrants will receive harvest reports for moose and caribou equal to the individual limits that would have applied under Federal subsistence regulations. Registrants may hunt for themselves or may transfer the harvest report forms issued to them to another registrant.

14. How are eligibility questions and law enforcement concerns to be addressed?

If AITRC has questions about the eligibility of an applicant who provides the requested residency documentation or other concerns of a law enforcement nature, those questions and concerns shall immediately be forwarded to the Federal agency points of contact.

¹ Moose and caribou harvests by community harvest system registrants under State of Alaska regulations count towards the community harvest quota because the community harvest quota is the sum of the individual harvest limits of community harvest system registrants and under 50 CFR 100.25(c)(1) Federal subsistence and State of Alaska harvest limits can't be accumulated.

15. Can I register for the community harvest system if I have already been issued a Federal subsistence moose or caribou permit for lands within the community harvest system area?

Eligible hunters must choose each year between either (1) registering in the community harvest system for moose and/or caribou or (2) hunting for those species under the regular Federal subsistence regulations applicable to those areas.

The Board recognizes that permits have already been issued for the 2020/21 season. Users who have already received permits for the regular 2020/21 Federal subsistence hunts and have not yet harvested any animals under these permits but wish to register in the community harvest system, may turn the Federal permits in to the issuing agency or AITRC within two weeks after authorization of the community harvest system. Once the Federal permits have been turned in, the individual will then be eligible to register in the community harvest system.

16. Are designated hunters authorized within the community harvest system?

- No. Residents of communities operating under a community harvest system – whether or not they register for the community harvest system – may not designate someone else to harvest moose or caribou on their behalf under a Federal subsistence designated hunter permit.² If a Federally qualified subsistence user who resides in a community operating under a community harvest system would like someone else to hunt on their behalf, they have the option of registering for the community harvest system.
- Residents of communities operating under a community harvest system may serve as a Federal designated hunter for a Federally qualified subsistence hunter who lives in a community that is not operating under a community harvest system, subject to applicable regulatory requirements.

17. Are there any rules that I need to know about access when participating in the community harvest system?

Agency specific access rules apply to community harvest system registrants. Hunters planning to use off-road vehicles (ORVs) including all-terrain vehicles (ATVs), tracked vehicles, and “side-by-sides” as well as aircraft should contact the appropriate land manager for information about allowed means of subsistence access.

² 50 CFR 100.25(e) “*Hunting by designated harvest permit.* If you are a Federally qualified subsistence user (recipient), you may designate another Federally qualified subsistence user to take deer, moose, and caribou, and in Units 1-5, goats, on your behalf **unless you are a member of a community operating under a community harvest system** or unless unit-specific regulations in §100.26 preclude or modify the use of the designated hunter system or allow the harvest of additional species by a designated hunter....” (emphasis added).

18. Who are the Federal land management agency points of contact?

Bureau of Land Management – Glennallen Field Office:

Marnie Graham, Field Manager

mgraham@blm.gov

(907) 822-3217 (main office)

(907) 822-7318 (desk)

(907) 795-5761 (cell)

National Park Service – Denali National Park and Preserve

Amy Craver, Subsistence Manager/Cultural Anthropologist

amy_craver@nps.gov

(907) 644-3604 (desk)

National Park Service – Wrangell-St. Elias National Park and Preserve

Barbara Cellarius, Cultural Anthropologist/Subsistence Coordinator

barbara_cellarius@nps.gov

(907) 822-5234 (main office)

(907) 822-7236 (desk)

(907) 205-0157 (cell)

U.S. Fish and Wildlife Service – Tetlin National Wildlife Refuge

Tim Lorenzini, Supervisory Park Ranger

timothy_lorenzini@fws.gov

(907) 883-9409 (desk)

(907) 505-0858 (cell)

Office of Subsistence Management

Lisa Maas, Acting Policy Coordinator/Wildlife Biologist

Lisa_Maas@fws.gov

subsistence@fws.gov

(907) 786-3888 (main office)

(907) 786-3357 (desk)

AITRC's responsibilities as the community harvest system administrator:

- Register all eligible Federally qualified residents of the eligible communities who apply to register in the community harvest system.
- Collect sufficient information about registrants that they can be contacted if there are changes to the hunt conditions or to ensure that harvest reporting takes place.
- Verify residency in an eligible community as part of the registration process, and record how residency was verified (for example, vouched for by a community official (including the name of the official), Alaska driver's license, recent utility bill, voter registration card, or rental or mortgage receipt).
- Verify that registrants 18 years of age or older hold a current State of Alaska resident hunting license or permanent ID card (those 60 years of age or older or disabled veterans) and record the license number as part of the registration process.
- Provide registrants with a document, which identifies the hunter by name or with a unique number that is keyed to name in AITRC's records, to be carried while hunting that verifies their registration in the community harvest system.
- Provide a list of newly registered community harvest system registrants to the Federal agency points of contact on a weekly basis.
- Provide registrants with general information regarding eligible Federal public lands and hunt areas, customary and traditional use determinations, seasons, and harvest limits.
- Inform the registrants that they are required to submit harvest reports to AITRC within 5 days of a successful harvest or within 15 days of the end of the season if unsuccessful. Harvest reports must include the following information for each animal harvested:
 - Species: Moose or Caribou
 - How many days did you hunt? _____
 - How did you get to hunt area? (primary method of getting to where you started walking) (A) Airplane (B) Horse/Dog Sled (C) Boat (D) Airboat (E) Snow Machine (F) 3-4 Wheeler (G) Other off road vehicle (H) Highway vehicle (I) No vehicle used
 - Unit Hunted _____
 - Subunit Hunted _____
 - Hunt Area Hunted _____
 - Specific Harvest Location (for example road or trail and mile marker or a geographic feature or waterbody name)

 - Did you Harvest an animal? Yes ___ No ___
 - If yes, Date of Harvest (mm/dd/yy) ____/____/____
 - Sex of animal: Male ___ Female ___

- Following applies to Moose harvest only:
 - A. Was animal Spike/Fork? Yes ___ No___
 - B. Antler Spread(inches): _____
 - C. Number of brow tines: L _____ R _____
- Track harvest success, including any harvests by registrants under State of Alaska regulations, to ensure that total harvests by community harvest system registrants do not exceed the cumulative harvest limits of the individuals registered in the community harvest system (i.e., the community harvest system quota).
- Administer the community harvest quota and individual harvest reports.
- Provide harvest report information to Federal agency points of contact on a weekly basis unless otherwise specified in these conditions.
- For hunt areas where the Federal Subsistence Board had delegated authority to a local Federal land manager to manage harvest using a quota, provide harvest information to the Federal agency points of contact no later than the next business day after it is submitted to AITRC. As of the 2020-2022 regulatory cycle, these hunt areas are as follows:
 - Chisana caribou herd hunt in Unit 12, that portion east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border. Delegated Federal manager is the Superintendent of Wrangell-St. Elias National Park and Preserve.
 - Winter moose hunt (Nov. 20 to Jan 20) in Unit 11, that portion south and east of a line running along the north bank of the Chitina River, the north and west banks of the Nizina River, and the west bank of West Fork of the Nizina River, continuing along the western edge of the West Fork Glacier to the summit of Regal Mountain. Delegated Federal manager is the Superintendent of Wrangell-St. Elias National Park and Preserve.
- Follow up with hunters regarding more specific harvest locations if requested to do so by the Federal manager in cases where the harvest locations are not sufficiently detailed for the Federal manager's needs.
- Follow up with registrants who have not submitted harvest reports within 15 days of the close of the season, including those individuals that registered but were unsuccessful or did not hunt. These data should be provided to the Federal agency points of contact within 30 days of the close of the season.
- Participate in an annual review of the community harvest system as required in 50 CFR 100.6(e).

FP21-01 Executive Summary	
General Description	Proposal FP21-01 requests to eliminate Federal regulations that describe precisely when and where the salmon subsistence fishery will close around commercial openings on the Kuskokwim River. <i>Submitted by the Yukon Delta National Wildlife Refuge.</i>
Proposed Regulation	<p>§ __.27 (e)(4) Kuskokwim Area</p> <p><i>(iii) In District 1, Kuskokuak Slough, from June 1 through July 31 only, you may not take salmon for 16 hours before and during each State open commercial salmon fishing period in the district.</i></p> <p style="text-align: center;">* * * *</p> <p><i>(v) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8, you may not take salmon by net gear or fish-wheel for 16 hours before or during and for 6 hours after each open commercial salmon fishing period in the district. You may subsistence fish for salmon with rod and reel 24 hours per day, 7 days per week, unless rod and reel are specifically restricted by this paragraph (e)(4).</i></p>
OSM Conclusion	Support
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	Support
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	Support
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Support
Written Public Comments	None

STAFF ANALYSIS
FP21-01

ISSUES

Proposal FP21-01, submitted by the Yukon Delta National Wildlife Refuge, requests the Federal Subsistence Board (Board) to eliminate Federal regulations that describe precisely when and where the salmon subsistence fishery will close around commercial openings in the Kuskokwim River.

DISCUSSION

The proponent states that current Federal regulations are not parallel with State regulations. These requested regulation changes would align Federal and State regulations. Closure times before, during, and after commercial openings are now announced via State emergency orders, making Federal regulations potentially more restrictive than what the State would announce. Additionally, the proposal makes the District 2 regulation less confusing because the first and second sentences have no relation to one another.

Existing Federal Regulation

§ __.27 (e)(4) Kuskokwim Area

(iii) In District 1, Kuskokuak Slough, from June 1 through July 31 only, you may not take salmon for 16 hours before and during each State open commercial salmon fishing period in the district.

(v) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8, you may not take salmon by net gear or fish wheel for 16 hours before or during and for 6 hours after each open commercial salmon fishing period in the district. You may subsistence fish for salmon with rod and reel 24 hours per day, 7 days per week, unless rod and reel are specifically restricted by this paragraph (e)(4).

Proposed Federal Regulation

§ __.27 (e)(4) Kuskokwim Area

~~(iii) In District 1, Kuskokuak Slough, from June 1 through July 31 only, you may not take salmon for 16 hours before and during each State open commercial salmon fishing period in the district.~~

(v) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, ~~from June 1 through September 8, you may not take salmon by net gear or fish wheel for 16 hours before or during and for 6 hours after each open commercial salmon fishing period in the district.~~ You may subsistence fish for salmon with rod and reel 24 hours per day, 7 days per week, unless rod and reel are specifically restricted by this paragraph (e)(4).

Relevant Federal Regulation

§ __.27 (e)(4) Kuskokwim Area

(ii) For the Kuskokwim area, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), except the use of gillnets with 6-inch or less mesh size is allowed before June 1 in the Kuskokwim River drainage, unless superseded by a Federal special action.

Existing State Regulation

5 AAC 01.260. Fishing seasons and periods—Kuskokwim Area

(b) In the waters of Districts 1 and 2 and those waters of the Kuskokwim River between Districts 1 and 2, salmon may be taken at any time, except that the commissioner may, by emergency order, close the subsistence fishing periods in the waters of Districts 1 and 2 and those waters of the Kuskokwim River between District 1 and 2 and reopen those waters to commercial fishing. In Subdistricts 1-A and 1-B, the commissioner may, by emergency order, reopen fishing periods where subsistence fishing will be allowed in portions of waters adjacent to the waters of Subdistricts 1-A or 1-B open to commercial fishing under this subsection.

5 AAC 07.200. Fishing districts, subdistricts, and sections—Kuskokwim Area

(a) District 1 consists of that portion of the Kuskokwim River upstream from a line from Apokak Slough at 60_ 08.50' N. lat., 162_ 12' W. long. to the southernmost tip of Eek Island to Popokamiut at 60_ 04' N. lat., 162_ 28' W. long., to a line between ADF&G regulatory markers located at the mouth of Bogus Creek.

(1) Subdistrict 1-A consists of that portion of District 1 upstream from a line between ADF&G regulatory markers located at the downstream end of Steamboat Slough to a line between ADF&G regulatory markers located at the mouth of Bogus Creek;

(2) Subdistrict 1-B consists of that portion of District 1 upstream from a line from Apokak Slough at 60° 08.50' N. lat., 162° 12' W. long. to the southernmost tip of Eek Island to the Popokamiut at 60° 04' N. lat., 162° 28' W. long. to a line between ADF&G regulatory markers located at the downstream end of Steamboat Slough.

(A) Lower Section consists of that portion of Subdistrict 1-B upstream from a line from Apokak Slough at 60° 08.50' N. lat., 162° 12' W. long. to the southernmost tip of Eek Island to Popokamiut at 60° 04' N. lat., 162° 28' W. long. to a line between ADF&G regulatory markers located at approximately 60° 28' N. lat., 162° 18' W. long. and 60° 28' N. lat., 162° 21' W. long.;

(B) Upper Section consists of that portion of Subdistrict 1-B not included in Lower Section

(b) District 2 consists of that portion of the Kuskokwim River from the ADF&G regulatory markers located just below the upstream entrance to the second slough on the west bank of the Kuskokwim River downstream of Lower Kalskag, approximately seven and one-half miles downstream of Lower Kalskag, to ADF&G regulatory markers at the downstream edge of Chuathbaluk.

Extent of Federal Public Lands/Waters

For purposes of this analysis, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. The affected area consists of District 1 and most of District 2 and the waters between Districts 1 and 2 in the Kuskokwim River drainage that are within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge (Refuge) (**Figure 1**). Federal Public waters are generally described as the Kuskokwim River drainage from its mouth up to and including approximately 30 miles of the Aniak River.

Customary and Traditional Use Determinations

Residents of the Kuskokwim Area, except those persons residing on United States military installations located on Cape Newnham, Sparrevohn USAFB, and Tatalina USAFB, have a customary and traditional use determination for salmon in the Kuskokwim River drainage.

Regulatory History

These regulations were adopted by the Board in 1999 when promulgating the initial Federal regulations for fish in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5. 1306 [January 8, 1999]). The purpose of the regulations was to prevent the sale of subsistence caught salmon into the commercial market.

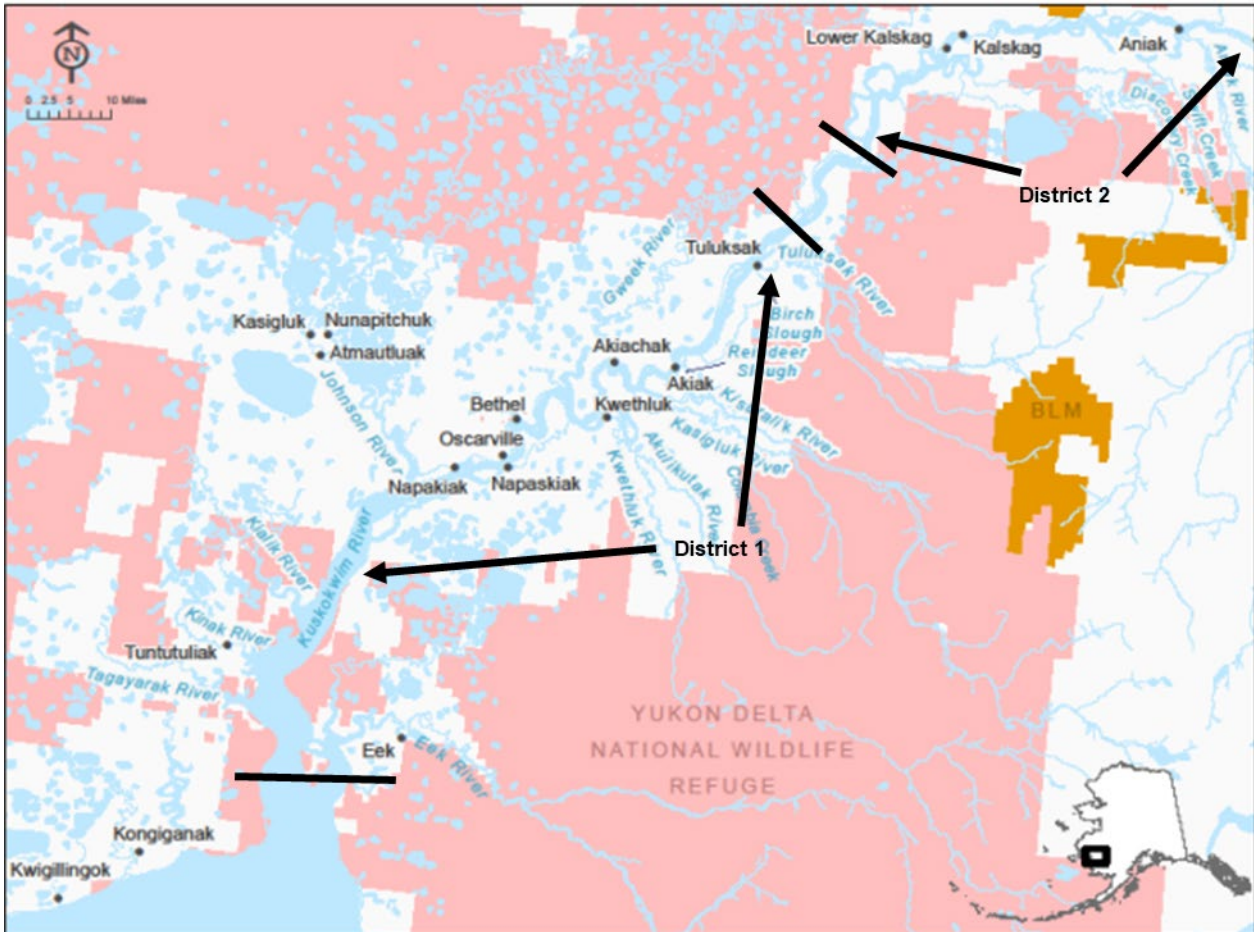


Figure 1. Map of Kuskokwim River Fishing Districts 1 and 2.

In 2003, the Federal Subsistence Board adopted the following regulatory language in order to streamline regulations and reduce redundancy and confusion concerning in-season fishery management actions (FSB 2003: 39-50; OSM 2003; 68 Fed. Reg. 29, 7277, 7286 [February 12, 2003]):

§ __.27 (e)(4) Kuskokwim Area

(ii) For the Kuskokwim area, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060 [Emergency Orders]), unless superseded by a Federal Special Action.

In 2004, the Alaska Board of Fisheries changed its regulations describing subsistence fishing opportunity immediately before, during, and immediately after commercial fishing openings in the Kuskokwim River. Proposal 134, submitted by the Alaska Department of Fish and Game (ADF&G), was a request to add a reference to the Kuskokwim River Salmon Rebuilding Management Plan (5 AAC 07.365) into the regulation 5 AAC 01.260 *Fishing seasons and periods*. Proposal 134 was also a

request to repeal the following language in 5 AAC 01.260 in order to make subsistence fishing regulations consistent and concise:

5 AAC 01.260. Fishing seasons and periods—Kuskokwim Area

(b) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, excluding the Kuskokuak Slough, salmon may be taken at any time except salmon may not be taken for 16 hours before, during, and 6 hours after each commercial fishing opportunity in the district.

~~*(c) In District 1, Kuskokuak Slough only, salmon may be taken at any time except (1) from June 1 through July 31, salmon may not be taken for 16 hours before and during each open-commercial salmon fishing period in the district.*~~

(e) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8, you may not take salmon by net gear or fish wheel for 16 hours before or during and for 6 hours after each open commercial salmon fishing period in the district.

The Alaska Department of Fish and Game said “during the last several commercial fishing seasons, the Department by emergency order authority has made the subsistence fishing schedule in Kuskokuak Slough the same as the remaining Kuskokwim River drainage waters downstream of Bogus Creek (District 1),” and the Department wanted to make this change to regulations (ADF&G 2004a: 84). However, Alaska Board of Fisheries members recognized there was an opportunity “to provide additional subsistence fishing opportunity on the lower Kuskokwim River” and “provided the commissioner emergency order authority to establish subsistence fishing closures around commercial fishing periods in the District 1 subdistrict, in portions of waters adjacent to the subdistrict open to commercial fishing” (ADF&G 2004b: 13). The revised regulation read:

5 AAC 01.260. Fishing seasons and periods—Kuskokwim Area

(b) In the waters of Districts 1 and 2 and those waters of the Kuskokwim River between Districts 1 and 2, salmon may be taken at any time, except that the commissioner may, by emergency order, close the subsistence fishing periods in the waters of Districts 1 and 2 and those waters of the Kuskokwim River between District 1 and 2 and reopen those waters to commercial fishing. In Subdistricts 1-A and 1-B, the commissioner may, by emergency order, reopen fishing periods where subsistence fishing will be allowed in portions of waters adjacent to the waters of Subdistricts 1-A or 1-B open to commercial fishing under this subsection.

~~(b) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, excluding the Kuskokuak Slough, salmon may be taken at any time except salmon may not be taken for 16 hours before, during, and 6 hours after each commercial fishing opportunity in the district.~~

~~(c) In District 1, Kuskokuak Slough only, salmon may be taken at any time except (1) from June 1 through July 31, salmon may not be taken for 16 hours before and during each open-commercial salmon fishing period in the district.~~

~~(e) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8, you may not take salmon by net gear or fish wheel for 16 hours before or during and for 6 hours after each open commercial salmon fishing period in the district.~~

In 2006, the Refuge submitted Proposal FP06-05 to “Allow subsistence users more time before and after commercial fishing periods” (OSM 2005: 5). The proposed regulation read:

§ __.27 (e)(4) Kuskokwim Area

(ii) For the Kuskokwim area, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

~~(iii) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, excluding the Kuskokuak Slough, you may not take salmon for 16 hours before, during, and for six hours after, each open commercial salmon fishing period for District 1.~~

~~(iv) In District 1, Kuskokuak Slough, from June 1 through July 31 only, you may not take salmon for 16 hours before and during each State open commercial salmon fishing period in the district.~~

(vi) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8, you may not take salmon by net gear or fish wheel for 16 hours before or during and for 6 hours after each open commercial salmon fishing period in the district. You may subsistence fish for salmon with rod and reel 24 hours per day, 7 days per week, unless rod and reel are specifically restricted by this paragraph (e)(4).

However, the modified Federal regulation maintained the fishing schedule in Kuskokuak Slough (OSM 2006).

The Office of Subsistence Management (OSM) analysis further described the Refuge request:

Subsistence fishing closures before, during, and after commercial fishing periods provide an enforcement tool to assure fish will not be harvested by unlicensed fishers and enter commercial markets. Until 2004, Federal and State subsistence fishing regulations prevented the subsistence harvest of salmon by net or fish wheel 16 hours before, during, and 6 hours after each State commercial salmon fishing period in District 1, excluding Kuskokuak Slough, and in District 2. In January 2004, the Alaska Board of Fisheries changed State regulations to allow the Alaska Department of Fish and Game (ADF&G) to establish subsistence fishing closures around commercial fishing periods by emergency order. This regulation change was permanent and requires emergency order action to establish periods closed to subsistence fishing. In 2004, the ADF&G changed, by emergency order, the time period for the subsistence closure to six hours before and during, and three hours after the commercial periods to allow for more subsistence opportunity (ADF&G 2004[c] *in original*) (OSM 2006: 155).

The OSM analysis based this description on an ADF&G emergency order in 2004 (ADF&G 2004c), instead of the changes to State regulations promulgated by the Alaska Board of Fisheries in 2004, described above. Additionally, OSM misinterpreted the ADF&G emergency order in 2004, and removed the District 1 closure instead of the Kuskokuak Slough closure. The Federal Subsistence proposal was on the consent agenda. The Federal Subsistence Board adopted the following revisions to the regulations (71 Federal Register 60, 15571 [March 29, 2006]):

§ __.27 (e)(4) Kuskokwim Area

(ii) For the Kuskokwim area, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

(iii) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, ~~excluding the Kuskokuak Slough, you may not take salmon for 16 hours before, during, and for six hours after, each open commercial salmon fishing period for District 1.~~

(iv) In District 1, Kuskokuak Slough, from June 1 through July 31 only, you may not take salmon for 16 hours before and during each State open commercial salmon fishing period in the district.

(vi) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8, you may not take salmon by net gear or fish wheel for 16 hours before or during and for 6 hours after each open commercial salmon fishing period in the district. You may subsistence fish for salmon with rod and reel 24 hours per day, 7 days per week, unless rod and reel are specifically restricted by this paragraph (e)(4).

Since 2015, the only commercial fishermen participating in the commercial fishery were those who registered with ADF&G as catcher/sellers and secured their own markets. The Alaska Department of Fish and Game did not implement 5 AAC 01.260 and close subsistence fishing periods by emergency order before, during, or after these commercial fishing periods for catcher/sellers (Lipka and Tiernan 2018, ADF&G 2018 and 2019). Other opportunities for commercial fishing have not occurred because there have been no salmon processors in the area, leaving the area without a large-scale salmon processor for the first time since statehood (Lipka and Tiernan 2018: 2–3).

Effects of the Proposal

If Proposal FP21-01 is adopted, then closures to subsistence fishing opportunity immediately before, during, and immediately after commercial fishing openings will be managed by emergency order regulations issued by ADF&G (§ __.27 (e)(4) Kuskokwim Area).

§ __.27 (e)(4) Kuskokwim Area

(ii) For the Kuskokwim area, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060 [Emergency Orders]), unless superseded by a Federal special action.

If Proposal FP21-01 is not adopted, then when Federal regulations are more restrictive than ADF&G emergency orders covering subsistence fishing opportunities immediately before, during, and immediately after commercial openings, subsistence users could opt to fish under ADF&G's less restrictive emergency order regulations. When these same Federal regulations were more lenient than ADF&G emergency order regulations, Federal subsistence users could continue to fish under Federal subsistence regulations. This might create confusion and defeat the purpose of the Board adopting regulations in 2003 specifically to streamline subsistence fishing schedules.

OSM CONCLUSION

Support Proposal FP21-01.

Justification

In 2003, the Board adopted regulations to coordinate management of fishing actions by State and Federal managers to minimize confusion, with the realization that the Federal in-season manager can issue special actions if an emergency order is detrimental to Federally qualified subsistence users. Current Federal regulations that close subsistence fishing immediately before, during, and immediately after commercial fishing openings in the Kuskokwim River are redundant and confusing, and should be rescinded.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon Kuskokwim Delta Subsistence Regional Advisory Council

Support FP21-01. This proposal will minimize confusion; aligns State and Federal regulations; makes regulations less restrictive (currently the State regulations are less restrictive than the Federal Subsistence regulations); gives subsistence users more opportunity to fish around commercial fishing periods, of which there are currently very few. There has been no commercial buyer on the Kuskokwim River, and only a few catcher sellers participate in commercial openings. This proposal recognizes the subsistence priority and will allow more time for subsistence fishing, rather than closing for long periods of time before, during, and after commercial openings. There is no conservation concern since a commercial fishery should not be conducted during a time of active fisheries conservation measures.

Western Interior Alaska Subsistence Regional Advisory Council

Support FP21-01. The Council believes this is a housekeeping issue. Adopting this proposal will allow alignment with current management practices that have been in place on the Kuskokwim River since 2003.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-01: This proposal eliminates the mandatory closures to subsistence fishing immediately before, during, and after commercial fishing periods in the Kuskokwim River.

Introduction: During lower Kuskokwim River commercial fishing periods, State subsistence fishing regulation currently allows the Commissioner to provide subsistence fishing opportunity in the lower Kuskokwim River through the use of emergency order authority to establish subsistence fishing closures around commercial fishing periods. State and Federal regulations are currently not aligned with the Federal regulation being more restrictive to subsistence fishers in recent years. The proposal would align Federal subsistence regulations with State subsistence fishing regulations.

Impact on Subsistence Users: Adoption of this proposal would reduce complexity and confusion in the regulations by aligning Federal and State regulations.

Impact on Other Users: None.

Opportunity Provided by State:

5 AAC 01.260. Fishing seasons and periods

(b) In the waters of Districts 1 and 2 and those waters of the Kuskokwim River between Districts 1 and 2, salmon may be taken at any time, except that the commissioner may, by emergency order, close the subsistence fishing periods in the waters of Districts 1 and 2 and those waters of the Kuskokwim River between District 1 and 2 and reopen those waters to commercial fishing. In Subdistricts 1-A and 1-B, the commissioner may, by emergency order, reopen fishing periods where subsistence fishing will be allowed in portions of waters adjacent to the waters of Subdistricts 1-A or 1-B open to commercial fishing under this subsection.

5 AAC 07.200. Fishing districts, subdistricts, and sections

(a) District 1 consists of that portion of the Kuskokwim River upstream from a line from Apokak Slough at 60° 08.50' N. lat., 162° 12' W. long. to the southernmost tip of Eek Island to Popokamiut at 60° 04' N. lat., 162° 28' W. long., to a line between ADF&G regulatory markers located at the mouth of Bogus Creek.

(1) Subdistrict 1-A consists of that portion of District 1 upstream from a line between ADF&G regulatory markers located at the downstream end of Steamboat Slough to a line between ADF&G regulatory markers located at the mouth of Bogus Creek;

(2) Subdistrict 1-B consists of that portion of District 1 upstream from a line from Apokak Slough at 60° 08.50' N. lat., 162° 12' W. long. to the southernmost tip of Eek Island to the Popokamiut at 60° 04' N. lat., 162° 28' W. long. to a line between ADF&G regulatory markers located at the downstream end of Steamboat Slough.

(A) Lower Section consists of that portion of Subdistrict 1-B upstream from a line from Apokak Slough at 60° 08.50' N. lat., 162° 12' W. long. to the southernmost tip of Eek Island to Popokamiut at 60° 04' N. lat., 162° 28' W. long. to a line between ADF&G regulatory markers located at approximately 60° 28' N. lat., 162° 18' W. long. and 60° 28' N. lat., 162° 21' W. long.;

(B) Upper Section consists of that portion of Subdistrict 1-B not included in Lower Section.

(b) District 2 consists of that portion of the Kuskokwim River from the ADF&G regulatory markers located just below the upstream entrance to the second slough on the west bank of the Kuskokwim River downstream of Lower Kalskag, approximately seven and one-half miles downstream of Lower Kalskag, to ADF&G regulatory markers at the downstream edge of Chuathbaluk.

Conservation Issues: This proposal as written does not provide a conservation concern. It would align Federal regulation with current State regulations. Under current State regulations the department has EO authority to restrict time, area, and gear for any salmon species if there is a conservation concern to achieve escapement goals.

Enforcement Issues: The department does not anticipate any additional enforcement issues if this proposal were to pass.

Recommendation: ADF&G **SUPPORTS** aligning State and Federal regulations.

FP21-02 Executive Summary	
General Description	Proposal FP21-02 requests to reduce the required distance between set nets in Kuskokwim River tributaries from 150 feet to 75 feet. <i>Submitted by the Yukon Delta National Wildlife Refuge.</i>
Proposed Regulation	<p>§ __.27 (e)(4) Kuskokwim Area</p> <p>* * * *</p> <p><i>(xiii) Within a tributary to the Kuskokwim River in that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakoff River, you may not set or operate any part of a set gillnet within 75 150 feet of any part of another set gillnet.</i></p>
OSM Conclusion	Support
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	Oppose
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	Oppose
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Support
Written Public Comments	None

STAFF ANALYSIS
FP21-02

ISSUES

Proposal FP21-02, submitted by the Yukon Delta National Wildlife Refuge, requests the Federal Subsistence Board (Board) reduce the required distance between set nets in Kuskokwim River tributaries from 150 feet to 75 feet.

DISCUSSION

The proponent states that current Federal subsistence fisheries regulations are not parallel with State regulations. This requested regulation change would align Federal and State regulations. The current Federal regulation is more restrictive than the current State regulation. The Alaska Board of Fisheries (BOF) changed State regulations during the Arctic-Yukon-Kuskokwim (AYK) BOF meeting in January 2019. In addition, the proponent also states that the adoption of this proposal will reduce user confusion and enforcement concerns.

Current Federal Regulation

§ __.27 (e)(4) Kuskokwim Area

(xiii) Within a tributary to the Kuskokwim River in that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakoff River, you may not set or operate any part of a set gillnet within 150 feet of any part of another set gillnet.

Proposed Federal Regulation

§ __.27 (e)(4) Kuskokwim Area

(xiii) Within a tributary to the Kuskokwim River in that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakoff River, you may not set or operate any part of a set gillnet within 75 ~~150~~ feet of any part of another set gillnet.

Existing State Regulation

5 AAC 01.270. Lawful gear and gear specifications and operation

(e) In that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakoff River, no part of a set gillnet located within a tributary to the Kuskokwim River may be set or operated within 75 feet of any part of another set gillnet.

Extent of Federal Public Lands/Waters

For purposes of this analysis, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. The affected area consists of those waters of the Kuskokwim River drainage that are within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge (Refuge), including District 1 and portions of District 2 of the Kuskokwim Fishery Management Area. The waters are generally described as the lower Kuskokwim River drainage from the mouth upriver to and including about 30 miles of the Aniak River (**Figure 1**).

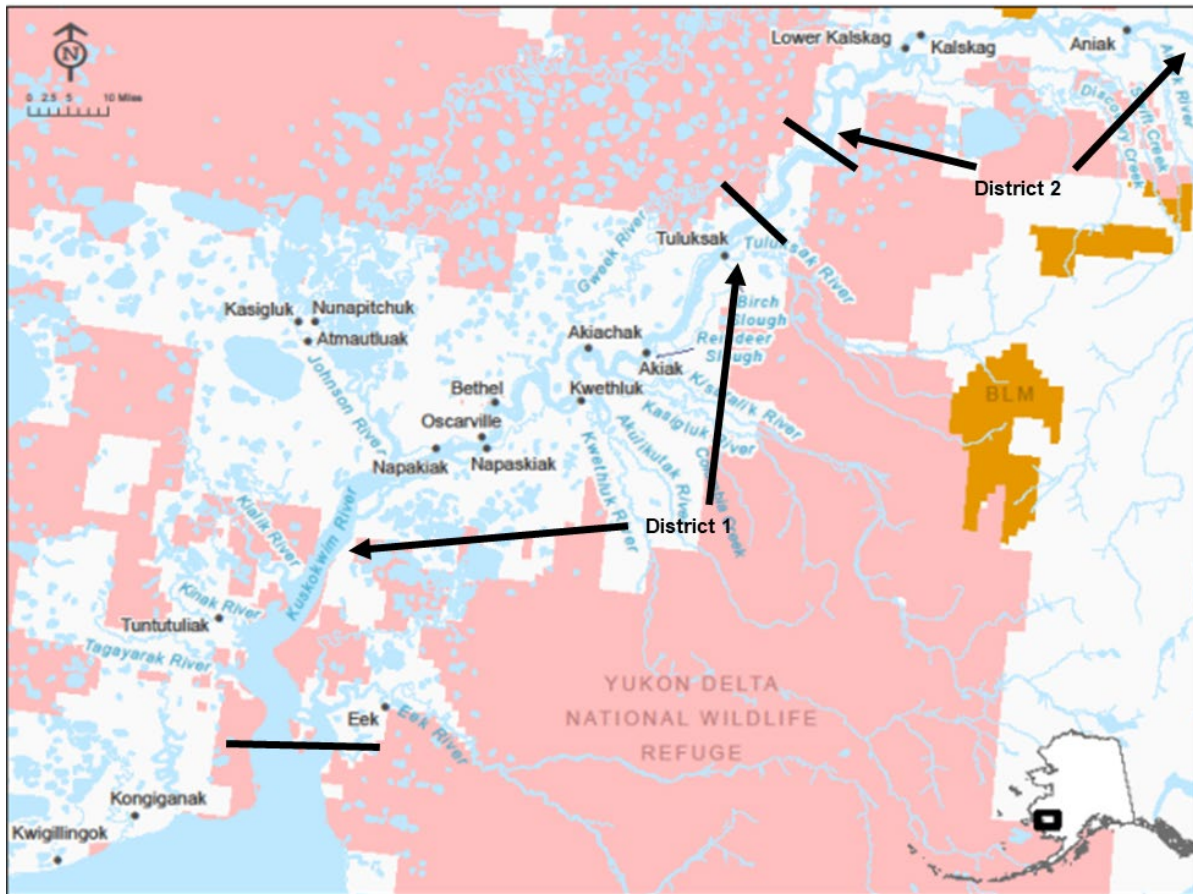


Figure 1. The lower Kuskokwim River drainage.

Customary and Traditional Use Determinations

Residents of the Kuskokwim Area, except those persons residing on United States military installations located on Cape Newnham, Sparrevohn USAFB, and Tatalina USAFB, have a customary and traditional use determination for all fish except rainbow trout in the Kuskokwim River drainage.

Residents of the communities of Akiachak, Akiak, Aniak, Atmautluak, Bethel, Chuathbaluk, Crooked Creek, Eek, Goodnews Bay, Kasigluk, Kwethluk, Lower Kalskag, Napakiak, Napaskiak, Nunapitchuk, Oscarville, Platinum, Quinhagak, Tuluksak, Tuntutuliak, and Upper Kalskag have a customary and traditional use determination for rainbow trout in the Kuskokwim River drainage.

Regulatory History

These regulations were adopted by the Federal Subsistence Board in 1999 when promulgating the initial Federal regulations for fish in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5. 1306 [January 8, 1999]).

In January 2019, the Alaska BOF took action on Proposal 106, submitted by the Organized Village of Kwethluk, which requested modifying the State regulation at 5 AAC 01.270 *Lawful gear and gear specifications and operation*. The regulation read:

(e) In that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakoff River, no part of a set gillnet located within a tributary to the Kuskokwim River may be set or operated within 150 feet of any part of another set gillnet.

The proponent requested allowing the operation of a set gillnet within 50 feet of another set gillnet. The proposal justification stated:

All throughout the Kuskokwim River drainage there are a few eddies to set gillnets during spring to fall and under ice set nets during winter months where we see nets set less than the current regulation. People along the Kuskokwim River drainages have set gillnets in eddies in spring to fall and under ice gear in winter which are usually less than 150 feet in length. In order to correct this, the department must adopt a revised regulation that meets the needs of set netters throughout the year (ADF&G 2019a).

The Alaska BOF amended Proposal 106 to “within 75 feet” of another set gillnet (ADF&G 2019b: 5). Board members were concerned that nets might get tangled with one another and user conflict might ensue, so they shortened the distance requirement to 75 feet rather than to 50 feet as requested by the Organized Village of Kwethluk.

Cultural Knowledge and Traditional Practices

Seventeen communities, from Tuntutuliak to Chuathbaluk, are situated in the lower and middle Kuskokwim River drainage within or near the exterior boundary of the Yukon Delta National Wildlife Refuge. The majority of residents belong to the *Kusquqvagmiut* confederation of villages and Yup'ik

cultural tradition (Oswalt 1980, Fienup-Riordan 1984). Most non-Natives living in the area reside in Bethel and Aniak, the regional hubs of Federal and State governments, transportation, trade, and services. The population of the area tripled in the 50 years between 1960 and 2010. In 1960, the U.S. Census Bureau's population estimate was 4,023 people. In 2010, it estimated 12,133 permanent residents were living in 3,482 households across these communities (ADCCED 2014).

Fishing with nets in tributaries of the Kuskokwim River is a well-documented subsistence activity (Andrews and Peterson 1983; Brown et al. 2012, 2013; Coffing 1991; Coffing et al. 2001; Ikuta et al. 2013, 2014, 2016; Krauthoefer et al. 2007; Oswalt 1959; Ray et al. 2010).

At the BOF meeting in January 2019, several residents of Kwethluk provided oral testimony on how this regulation might affect subsistence users. One said, "We recognize very few good areas from the mouth [of the Kuskokwim River] up to Kolmakoff, set gillnet sites that are productive. The Kuskokwim is a changing river every year. We don't have any issues or problems with 50 ft. [separation of nets]. There are very few eddy areas, good set net areas for subsistence users" (ADF&G 2019c). Another testifier recounted being ticketed along with four elders for having their nets too close together in the Kwethluk River. It is not unusual to see people staking their set nets closer than 150 ft. from one another with no conflict. One resident explained,

Traditionally we do our set net fishing in respect for other set nets. We don't set our nets right next to next person due to respect and old traditional way. One of the elders said to me, "Why are they putting regulations on our set nets like this? I'm an old person. I am not going to set my net with a yard stick." We don't try to set net close to next person. You can set your net wherever you want and if a fish comes along, it's not going to say that net's better than the other one. We catch what we want. To my point of view, regulations discourage younger people to go out and do subsistence. In a way they are good, but over-regulating everything since I was growing up. . . . I learned everything on my own. My dad didn't tell me to do this or that. He let me go out and learn by myself. You can get it if you're learning by yourself. Old traditional way is we don't set right next to them. We keep our distance (ADF&G 2019c).

Effects of the Proposal

If Proposal FP21-02 is adopted, Federally qualified subsistence users will be able to place set nets 75 feet apart in tributaries of the Kuskokwim River. Typically, there are limited numbers of good set net sites on a river, and this regulation change may allow more users to be able to fish during subsistence opportunities. In addition, Federal and State regulations will be aligned, decreasing confusion among users. Tributaries that have spawning populations of salmon have been closed to fishing during the Chinook Salmon run since 2015 under Federal special actions. If regulations to conserve Chinook Salmon continue into the future, fishing with set nets only 75 feet will only occur in non-salmon spawning tributaries during the Chinook Salmon run. However, increasing the numbers of set nets placed in the tributaries may increase harvest on anadromous and resident species. Conversely, the catch rates of each set net may decrease due to increased competition.

If Proposal FP21-02 is not adopted, if and when Federal public waters in Kuskokwim tributaries are closed to the harvest of salmon by nonsubsistence uses, then Federally qualified subsistence users will not be able to fish under the less restrictive State regulations. This may limit the number of users who can place a set net in good fishing locations on the river. Also, Federal and State regulations would not be aligned, potentially creating confusion.

OSM CONCLUSION

Support Proposal FP21-02.

Justification

There are a limited number of good set net sites within the Kuskokwim River drainage. Allowing Federally qualified subsistence users to place subsistence nets 75 feet apart will increase fishing opportunities within the tributaries of the Kuskokwim River drainage. Harvest will not likely increase as users can already set nets 75 feet apart under State regulations. In addition, aligning State and Federal regulations will reduce user confusion.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon Kuskokwim Delta Subsistence Regional Advisory Council

Oppose FP21-02. Reducing the distance between set nets in Kuskokwim tributary rivers from 150 feet to 75 feet will not increase actual opportunity – it will only increase crowding and lessen efficiency of fishing for all. When set nets are only 75 feet apart, nets set upstream are blocked or corked and everyone has a difficult time catching fish. Set net sites are managed traditionally by families, and they use the same eddies year after year. Nets set so close together will reduce the number of fish caught by everyone upstream. Good set net sights are limited and people often try to set nets as close to the mouth of tributary rivers as they can. Reducing the distance between nets causes crowding and reduces safety. Reduced distance will increase density of nets at the mouth of tributary rivers and increase the likelihood that nets will be run over by boat traffic from villages and subsistence activities, especially at night. This poses a safety issue and also increases likelihood of nets and boat motors getting damaged.

Western Interior Alaska Subsistence Regional Advisory Council

Oppose FP21-02. The Council was very concerned with the high potential of nets being very close together under this regulation. This would not only create crowding in traditional fishing areas but also have the potential to increase harvest. Salmon can be sucked into eddies on the river and be easily caught. This is especially challenging right now due to recent low Chum Salmon runs. The Council agrees with the Yukon Kuskokwim Delta Subsistence Regional Advisory Council that this regulation would not protect the resource, would create crowding, and would reduce in-season management capacities.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-02: This proposal reduces the required distance between set nets in Kuskokwim River tributaries from 150 feet to 75 feet.

Introduction: The Board of Fisheries (BOF) adopted new State regulations regarding required distance between set nets in Kuskokwim River tributaries during the Arctic-Yukon-Kuskokwim (AYK) BOF meeting in January 2019.

Impact on Subsistence Users: Adoption of this proposal would reduce complexity in the regulations by aligning Federal and State regulations.

Impact on Other Users: None.

Opportunity Provided by State:

5 AAC 01.270. Lawful gear and gear specifications and operation

(e) In that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakoff River, no part of a set gillnet located within a tributary to the Kuskokwim River may be set or operated within 75 feet of any part of another set gillnet.

Conservation Issues: This proposal as written does not provide a conservation concern. It would align Federal regulation with current State regulations. Under current State regulations the department has EO authority to restrict time, area, and gear for any salmon species if there is a conservation concern to achieve escapement goals.

Enforcement Issues: This proposal would reflect the recent changes made by the BOF. Reduced complexity helps increase compliance with regulations and reduces enforcement concerns.

Recommendation: ADF&G **SUPPORTS** aligning State and Federal regulations.

FP21-03 Executive Summary	
General Description	Proposal FP21-03 requests to clarify that drift gill nets are legal gear in Kuskokwim River tributaries. <i>Submitted by the Yukon Delta National Wildlife Refuge.</i>
Proposed Regulation	<p>§ __.27 (e)(4) Kuskokwim Area</p> <p style="text-align: center;">* * * *</p> <p>(xii) <i>You must attach to the bank each subsistence set gillnet operated in tributaries of the Kuskokwim River and fish it substantially perpendicular to the bank and in a substantially straight line.</i></p>
OSM Conclusion	Support
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	Support
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	Support
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Support
Written Public Comments	None

STAFF ANALYSIS
FP21-03

ISSUES

Proposal FP21-03, submitted by the Yukon Delta National Wildlife Refuge, requests the Federal Subsistence Board (Board) to clarify that drift gill nets are legal gear in Kuskokwim River tributaries.

DISCUSSION

The proponent describes how in June 2019, ADF&G clarified in its regulations that drift gillnets are legal gear in Kuskokwim River tributaries, and drift gill nets have always been legal gear in Kuskokwim River tributaries.

Existing Federal Regulation

§ __.27 (e)(4) Kuskokwim Area

(xii) You must attach to the bank each subsistence gillnet operated in tributaries of the Kuskokwim River and fish it substantially perpendicular to the bank and in a substantially straight line.

Proposed Federal Regulation

§ __.27 (e)(4) Kuskokwim Area

*(xii) You must attach to the bank each subsistence **set** gillnet operated in tributaries of the Kuskokwim River and fish it substantially perpendicular to the bank and in a substantially straight line.*

Existing State Regulation

5 AAC 01.270. Lawful gear and gear specifications and operation

(d) Each subsistence set gillnet operated in tributaries of the Kuskokwim River must be attached to the bank, fished substantially perpendicular to the bank and in a substantially straight line.

Extent of Federal Public Lands/Waters

For purposes of this analysis, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. The affected area consists of those waters of the Kuskokwim River drainage that are within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge (Refuge), including District 1 and portions of District 2 of the Kuskokwim Fishery Management Area. The waters are generally described as the lower Kuskokwim River drainage from the mouth upriver to and including about 30 miles of the Aniak River (**Figure 1**).

Customary and Traditional Use Determinations

Residents of the Kuskokwim Area, except those persons residing on United States military installations located on Cape Newnham, Sparrevohn USAFB, and Tatalina USAFB, have a customary and traditional use determination for all fish except Rainbow Trout in the Kuskokwim River drainage.

Residents of the communities of Akiachak, Akiak, Aniak, Atmautluak, Bethel, Chuathbaluk, Crooked Creek, Eek, Goodnews Bay, Kasigluk, Kwethluk, Lower Kalskag, Napakiak, Napaskiak, Nunapitchuk, Oscarville, Platinum, Quinhagak, Tuluksak, Tuntutuliak, and Upper Kalskag have a customary and traditional use determination for Rainbow Trout in the Kuskokwim River drainage.

Regulatory History

In 1999, the Federal Subsistence Board adopted this regulation when promulgating the initial Federal regulations for fish in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5. 1306 [January 8, 1999]).

In 2019, the Board adopted Proposal FP19-10, submitted by James Charles of Tuntutuliak, with modification that “All tributaries not expressly closed by Federal special action, or as modified by regulations in this section, remain open to the use of gillnets more than 100 yards upstream from their confluence with the Kuskokwim River” (§100.27(e)(4) *Kuskokwim Area*; 84 Fed. Reg. 155, 39750 [August 12, 2019]).

In June 2019, the Commissioner of ADF&G, under his delegated authority from the Alaska BOF, proposed to adopt regulation changes correcting errors and omissions, ambiguities, and technical deficiencies dealing with certain finfish and shellfish fisheries, including the following Kuskokwim Area regulation: “5 AAC 01.270. *Lawful gear and gear specifications and operation* is proposed to be changed to add the word ‘set’ in front of the word ‘gillnet’ for clarity” (ADF&G 2019a).

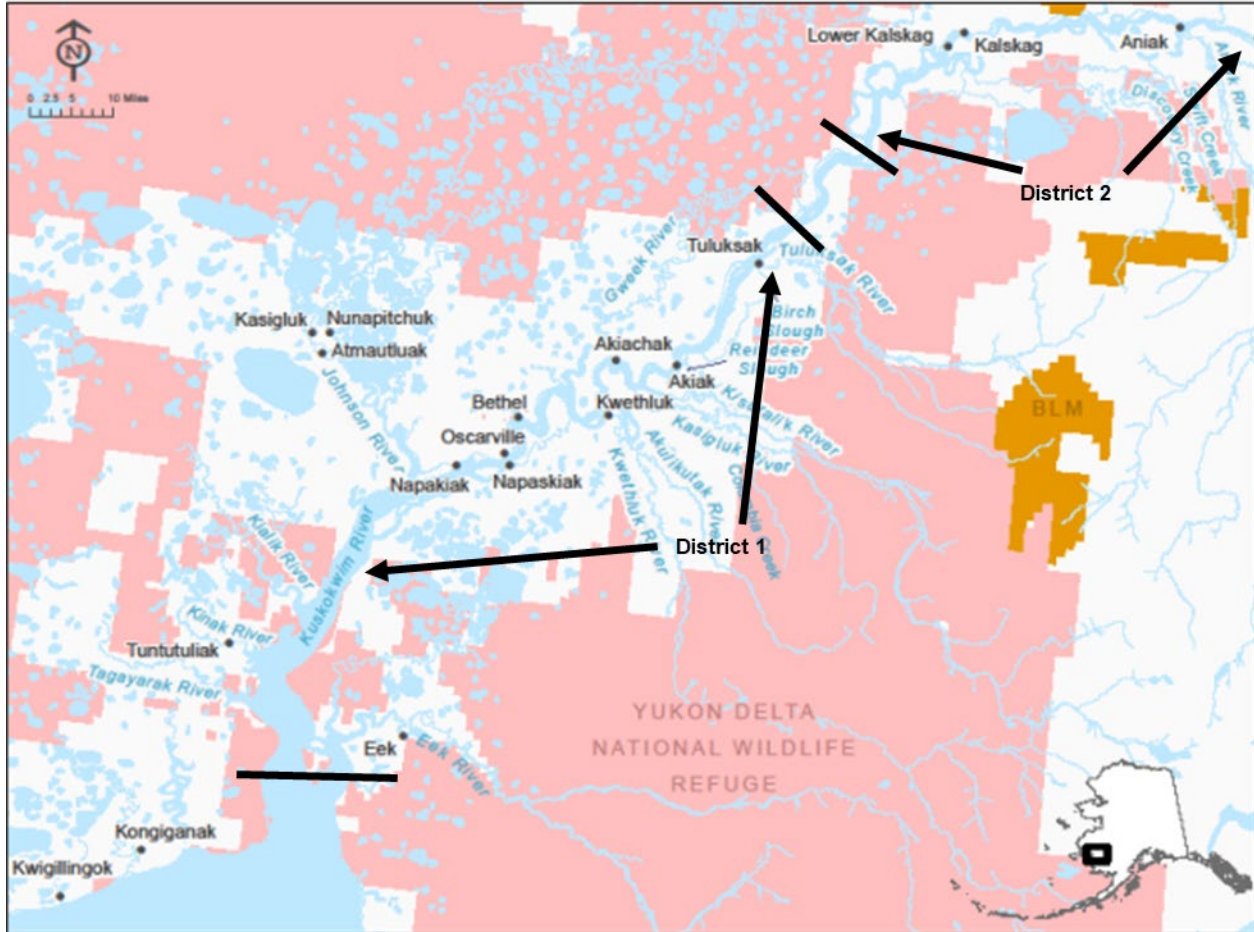


Figure 1. The lower Kuskokwim River drainage.

After a public comment period ending July 8, 2019, without further notice, the Commissioner adopted this proposed regulation change. The revised regulation clarifies that drift nets are a legal subsistence gear in tributaries of the Kuskokwim River.

Effects of the Proposal

Adoption of Proposal FP21-03 would allow Federally qualified subsistence users to use drift nets in tributaries of the Kuskokwim River Drainage. Drifting nets in some tributaries is already a common practice, and adoption of this proposal will make it legal for the users under Federal subsistence regulations. Adoption would also align State and Federal Regulations.

If Proposal FP21-03 was not adopted, it would become illegal under Federal regulations to drift a gill net in tributaries of the Kuskokwim River. Currently, it is common practice to drift gill nets in non-salmon spawning tributaries of the Kuskokwim River, particularly during closures to fishing on the mainstream. Federal regulations would remain more restrictive than State regulations. Fishers would be able to fish under State regulations unless superseded by Federal special action.

OSM CONCLUSION

Support Proposal FP21-03.

Justification

Drifting gill nets is a traditional way to fish for salmon and other fish species in tributaries of the Kuskokwim River. Adoption of this proposal would clarify that drift gill nets are legal gear in Kuskokwim River tributaries. Drift gill nets have always been legal gear in Kuskokwim River tributaries. In addition, this regulation change would align Federal and State regulations reducing user confusion and regulatory complexity.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon Kuskokwim Delta Subsistence Regional Advisory Council

Support FP21-03. This proposal clarifies that it is legal in both State and Federal regulations to use a drift gillnet in tributaries, which is a traditional practice. The Council also stressed that this is done with care to not overfish or disturb spawning areas and it is important to continue Chinook Salmon conservation measures at this time by closing fishing on tributary rivers when needed. The Council confirmed with the Yukon Delta National Wildlife Refuge manager that this proposal will clarify regulations that it is legal to use drift gillnets in tributaries but in-season management tools can still restrict fishing methods when needed for Chinook Salmon and other fish conservation measures.

Western Interior Alaska Subsistence Regional Advisory Council

Support FP21-03. The Council believes this is a housekeeping issue validating that drift nets represent a customary and traditional fishing method in the tributary streams of the Kuskokwim River. Adoption of this proposal will clarify this use under current Federal subsistence regulations.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-03: This proposal allows drift gill nets, in addition to set gill nets, in Kuskokwim River tributaries.

Introduction: The Board of Fisheries (BOF) changed the State regulations regarding the use of set and drift gillnets in Kuskokwim River tributaries during the Kodiak Finfish Alaska Board of Fisheries BOF meeting in January 2020.

Impact on Subsistence Users: Adoption of this proposal would reduce complexity in the regulations by aligning Federal and State regulations.

Impact on Other Users: None.

Opportunity Provided by State:

5 AAC 01.270. Lawful gear and gear specifications and operation

(d) Each subsistence set gillnet operated in tributaries of the Kuskokwim River must be attached to the bank, fished substantially perpendicular to the bank and in a substantially straight line.

Conservation Issues: This proposal as written does not provide a conservation concern. It would align Federal regulation with current State regulations. Under current State regulations the department has EO authority to restrict time, area, and gear for any salmon species if there is a conservation concern to achieve escapement goals.

Enforcement Issues: This proposal would reflect the recent changes made by the BOF. Reduced complexity helps increase compliance with regulations as well as reduce enforcement concerns.

Recommendation: ADF&G **SUPPORTS** aligning State and Federal regulations.

FP21-05 Executive Summary	
General Description	<p>Proposal FP21-05 requests the Board simplify Federal regulations by removing regulations that imply the Board has authority to regulate subsistence fishing in the marine waters of fishing districts.</p> <p><i>Submitted by: Bristol Bay Native Association.</i></p>
Proposed Regulation	<p>§___.27(e)(5) Bristol Bay Area</p> <p style="text-align: center;">* * * *</p> <p><i>(ii) In all State commercial salmon districts, from May 1 through May 31 and October 1 through October 31, you may subsistence fish for salmon only from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, you may take salmon only during State-open commercial salmon fishing periods.</i></p> <p style="text-align: center;">* * * *</p> <p><i>(vi) Within any district, you may take salmon, herring, and capelin by set gillnets only.</i></p> <p><i>(vii) Outside the boundaries of any district, u Unless otherwise specified, you may take salmon by set gillnet only.</i></p> <p style="text-align: center;">* * * *</p> <p><i>(xii) During State closed commercial herring fishing periods, you may not use gillnets exceeding 25 fathoms in length for the subsistence taking of herring or capelin.</i></p> <p style="text-align: center;">* * * *</p> <p><i>(xvi) In the Togiak River section and the Togiak River drainage:</i></p> <p><i>(A) You may not possess coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.</i></p> <p><i>(B) You may not possess salmon taken with a drift gillnet under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.</i></p>

OSM Conclusion	Support
Bristol Bay Subsistence Regional Advisory Council Recommendation	Support
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Support
Written Public Comments	None

STAFF ANALYSIS
FP21-05

ISSUES

Proposal FP21-05, submitted by the Bristol Bay Native Association, requests that the Federal Subsistence Board (Board) simplify Federal regulations by removing regulations that imply the Board has authority to regulate subsistence fishing in the marine waters of fishing districts.

DISCUSSION

The proponent states that current Federal regulations suggest jurisdiction in the marine waters of commercial fishing districts. The proponent states, “none of the commercial fishing districts in the Bristol Bay area are located on inland waters within or adjacent to Federal public lands or conservation system units.” The inland waters of the Wood River are in the Nushagak Fishing District; however, they are not within and adjacent to Federal public lands and are not Federal public waters under the jurisdiction of these subsistence regulations. Repealing these regulations simplifies where Federal subsistence fishing regulations occur.

Existing Federal Regulation

§ __.27(e)(5) *Bristol Bay Area*

* * * *

(ii) In all State commercial salmon districts, from May 1 through May 31 and October 1 through October 31, you may subsistence fish for salmon only from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, you may take salmon only during State open commercial salmon fishing periods.

* * * *

(vi) Within any district, you may take salmon, herring, and capelin by set gillnets only.

(vii) Outside the boundaries of any district, unless otherwise specified, you may take salmon by set gillnet only.

* * * *

(xii) During State closed commercial herring fishing periods, you may not use gillnets exceeding 25 fathoms in length for the subsistence taking of herring or capelin.

* * * *

(xvi) In the Togiak River section and the Togiak River drainage:

(A) You may not possess coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

(B) You may not possess salmon taken with a drift gillnet under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

Proposed Federal Regulation

§ __.27(e)(5) Bristol Bay Area

* * * *

~~(ii) In all State commercial salmon districts, from May 1 through May 31 and October 1 through October 31, you may subsistence fish for salmon only from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, you may take salmon only during State open commercial salmon fishing periods.~~

* * * *

~~(vi) Within any district, you may take salmon, herring, and capelin by set gillnets only.~~

(vii) ~~Outside the boundaries of any district, u~~ Unless otherwise specified, you may take salmon by set gillnet only.

* * * *

~~(xii) During State closed commercial herring fishing periods, you may not use gillnets exceeding 25 fathoms in length for the subsistence taking of herring or capelin.~~

* * * *

~~(xvi) In the Togiak River section and the Togiak River drainage:~~

~~(A) You may not possess coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.~~

~~(B) You may not possess salmon taken with a drift gillnet under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.~~

Existing State Regulation

5 AAC 01.005. Subsistence fishing permitted

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

5 AAC 01.310. Fishing seasons and periods

(a) Unless restricted in this section and 5 AAC 01.325, or unless restricted under the terms of a subsistence fishing permit, fish, other than rainbow trout, may be taken at any time in the Bristol Bay Area.

(b) In all commercial salmon districts, except for special harvest areas, from May 1 through May 31 and October 1 through October 31, subsistence fishing for salmon is permitted from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, except for special harvest areas, salmon may be taken only during open commercial fishing periods. In the Nushagak District, the commissioner, by emergency order, shall also provide for subsistence salmon fishing during periods of extended closures. During these emergency order openings,

(1) set gillnets may not be more than 10 fathoms in length; and

(2) no set gillnet may be set or operated within 450 feet of another set gillnet;

(3) repealed 5/15/93.

5 AAC 01.320. Lawful gear and gear specifications

(a) Within any district, salmon, herring, and capelin maybe taken by drift and set gillnets.

(b) Outside the boundaries of any district, salmon may only be taken by set gillnet, except that salmon may also be taken by dip nets in the waters described in 5 AAC 01.310(d) if fishing other than from a vessel, and salmon may also be taken as follows:

(j) During closed commercial herring fishing periods gillnets used for the subsistence taking of herring or capelin may not exceed 25 fathoms in length.

5 AAC 01.340. Marking of subsistence-taken salmon

In the Togiak River drainage, a person may not possess

(1) coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed;

(2) salmon taken under authority of a subsistence fishing permit with a drift gillnet unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

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 the Bristol Bay Area are comprised of those waters within and adjacent to the outer boundaries of the Togiak National Wildlife Refuge, Alaska Peninsula Becharof National Wildlife Refuge, Alaska Peninsula National Wildlife Refuge, Alagnak Wild and Scenic River corridor, Katmai National Preserve, and Lake Clark National Park and Preserve.

Customary and Traditional Use Determinations

Residents of the Nushagak District and freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Nushagak District, including drainages flowing into the district.

Residents of the Naknek and Kvichak River drainages have a customary and traditional use determination for salmon and freshwater fish in the Naknek River drainage.

Residents of the Kvichak/Iliamna-Lake Clark drainage have a customary and traditional use determination for salmon and freshwater fish in the Lake Clark drainage.

Residents of the Togiak District freshwater drainages flowing into the district, and the community of Manokotak, have a customary and traditional use determination for salmon and freshwater fish in Togiak District, including drainages flowing into the district.

Residents of South Naknek, the Egegik District, and freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Egegik District, including drainages flowing into the district.

Residents of the Ugashik District and freshwaters drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Ugashik District, including drainages flowing into the district.

Residents of the Togiak District and freshwater drainages flowing into the district have a customary and traditional use determination for Herring spawn on kelp in the Togiak District.

Residents of the Bristol Bay Area have a customary and traditional use determination for all fish in the Remainder of the Bristol Bay Area.

Regulatory History

In 1992, the Federal Subsistence Management Program (FSMP) promulgated regulations governing the harvest of fish for subsistence uses in waters qualifying as "public lands" under ANILCA (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations, which previously applied to those waters. In January 1999, the Federal Subsistence Management Program amended the scope and applicability of the Federal Subsistence Management Program in Alaska to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. The amendments also extend the Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or an Alaska Native Corporation, as required by the Alaska National Interest Lands Conservation Act (ANILCA) (64 FR 1276). The Bristol Bay Area regulations under consideration in this analysis were incorporated into the Federal regulations from existing State of Alaska subsistence regulations. In particular, the language specific to commercial fishing districts has not been modified since the promulgation of these regulations.

Current Events

Fisheries Proposal FP21-06, also submitted by the Bristol Bay Native Association, requests that the Board revise Federal subsistence fishing regulations for the Bristol Bay Area to specify that salmon may be taken by dip net, beach seine, and gillnet only, unless otherwise specified. Should both FP21-05 and FP21-06 be passed by the Board, regulatory language for both proposals would be modified to reflect those changes.

Effects of the Proposal

This proposal is administrative in nature. It would remove specific portions of the Bristol Bay Area Federal subsistence fishing regulations referring to commercial fishing districts that were incorporated nearly 21 years ago, that cover subsistence fishing in marine waters of commercial fishing districts.

If the Board adopts this proposal, there will be no effect on subsistence users or fish resources.

If the Board does not adopt this proposal, there will be no effect on subsistence users or fish resources.

OSM CONCLUSION

Support Proposal FP21-05.

Justification

While the regulations in question were promulgated in 1999 as part of the incorporation of much of the State's subsistence fishing regulations into the FSMP, they are confusing and have been of no use to Federally qualified subsistence users due to a lack of Federal jurisdiction over the marine waters in Bristol Bay Area commercial fishing districts. As such, they should be removed from the Federal subsistence fishing regulations to provide a more accurate description of harvest opportunities available to rural residents of the Bristol Bay Area.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Bristol Bay Subsistence Regional Advisory Council

Support FP21-05. The Council supports this proposal to remove regulatory language from existing regulations that reference commercial fishing districts. The Council states that it is a burdensome, confusing, and unnecessary regulation for subsistence users. There is no Federal jurisdiction over the marine waters in the Bristol Bay commercial fishing districts. The Council notes however that removal of caudal fins is not a subsistence practice and a separate proposal is required to request the removal of the caudal fin from regulations.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-05: This proposal revises the Federal subsistence fishing regulations for the Bristol Bay Area (§ __.27(e)(5)) by removing regulations that reference State commercial fishing districts.

Introduction: This proposal would remove specific portions of the Bristol Bay Area Federal subsistence fishing regulations that were incorporated at the start of the program, nearly 30 years ago, and cover subsistence fishing in commercial fishing districts. These areas are not within or adjacent to Federal public lands/waters, and therefore have never been open to fishing under Federal subsistence jurisdiction.

Impact on Subsistence Users: Removing the reference to commercial fishing districts from the Federal subsistence regulation would clarify regulations for subsistence users in this area.

Impact on Other Users: None

Opportunity Provided by State:

5 AAC 01.005. Subsistence fishing permitted

Finfish other than salmon, rainbow trout, and steelhead trout may be taken for subsistence purposes at any time in any area of the state by any method unless restricted by the subsistence

fishing regulations in this chapter. Salmon may be taken for subsistence purposes only as provided in this chapter.

5 AAC 01.310. Fishing seasons and periods

(a) Unless restricted in this section and 5 AAC 01.325, or unless restricted under the terms of a subsistence fishing permit, fish, other than rainbow trout, may be taken at any time in the Bristol Bay Area.

(b) In all commercial salmon districts, except for special harvest areas, from May 1 through May 31 and October 1 through October 31, subsistence fishing for salmon is permitted from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, except for special harvest areas, salmon may be taken only during open commercial fishing periods. In the Nushagak District, the commissioner, by emergency order, shall also provide for subsistence salmon fishing during periods of extended closures. During these emergency order openings,

- (1) set gillnets may not be more than 10 fathoms in length; and*
- (2) no set gillnet may be set or operated within 450 feet of another set gillnet;*
- (3) repealed 5/15/93.*

5 AAC 01.320. Lawful gear and gear specifications

(a) Within any district, salmon, herring, and capelin may be taken by drift and set gillnets.

(b) Outside the boundaries of any district, salmon may only be taken by set gillnet, except that salmon may also be taken by dip nets in the waters described in 5 AAC 01.310(d) if fishing other than from a vessel, and salmon may also be taken as follows:

(j) During closed commercial herring fishing periods gillnets used for the subsistence taking of herring or capelin may not exceed 25 fathoms in length.

5 AAC 01.340. Marking of subsistence-taken salmon

In the Togiak River drainage, a person may not possess

- (1) coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed;*
- (2) salmon taken under authority of a subsistence fishing permit with a drift gillnet unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.*

Conservation Issues: There do not appear to be any conservation issues associated with this proposal.

Enforcement Issues: There do not appear to be any enforcement issues associated with this proposal.

Recommendation: ADF&G **SUPPORTS** this proposal as it would remove inconsistencies in Federal subsistence regulations.

FP21-06 Executive Summary	
General Description	Proposal FP21-06 requests the Board revise Federal subsistence fishing regulations for the Bristol Bay Area to specify that salmon may be taken by dip net, beach seine, and gillnet only, unless otherwise specified. <i>Submitted by: Bristol Bay Native Association.</i>
Proposed Regulation	<p>§ __.27(e)(5) Bristol Bay Area</p> <p style="text-align: center;">* * * *</p> <p>(vi) <i>Within any district, you may take salmon, herring, and capelin by set gillnets only.</i></p> <p>(vii) <i>Outside the boundaries of any district, u</i> <i>Unless otherwise specified, you may take salmon by set gillnet dip net, beach seine, and gillnet only.</i></p>
OSM Conclusion	Support FP21-06 with modification
Bristol Bay Subsistence Regional Advisory Council Recommendation	Oppose
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Oppose
Written Public Comments	None

STAFF ANALYSIS
FP21-06

ISSUES

Proposal FP21-06, submitted by the Bristol Bay Native Association, requests that the Federal Subsistence Board (Board) revise Federal subsistence fishing regulations for the Bristol Bay Area to specify that salmon may be taken by dip net, beach seine, and gillnet only, unless otherwise specified.

DISCUSSION

The proponent is seeking to clarify the fishing methods and means available in the Bristol Bay Area under the Federal subsistence regulations. They contend that the existing regulations are more restrictive than the State subsistence regulations, and this change will simplify restricted methods of harvesting salmon on inland waters within or adjacent to Federal Public Lands and Conservation System Units in Bristol Bay.

Existing Federal Regulation

§ __.27(e)(5) Bristol Bay Area

* * * *

(vi) Within any district, you may take salmon, herring, and capelin by set gillnets only.

(vii) Outside the boundaries of any district, unless otherwise specified, you may take salmon by set gillnet only.

(A) You may also take salmon by spear in the Togiak River, excluding its tributaries.

(B) You may also use drift gillnets not greater than 10 fathoms in length to take salmon in the Togiak River in the first 2 river miles upstream from the mouth of the Togiak River to the ADF&G regulatory markers.

(C) You may also take salmon without a permit in Sixmile Lake and its tributaries within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited, and Lake Clark and its tributaries, by snagging (by handline or rod and reel), using a spear, bow and arrow, rod and reel, or capturing by bare hand.

(D) You may also take salmon by beach seines not exceeding 25 fathoms in length in Lake Clark, excluding its tributaries.

(E) You may also take fish (except rainbow trout) with a fyke net and lead in tributaries of Lake Clark and the tributaries of Sixmile Lake within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited.

(1) You may use a fyke net and lead only with a permit issued by the Federal in-season manager.

(2) All fyke nets and leads must be attended at all times while in use.

(3) All materials used to construct the fyke net and lead must be made of wood and be removed from the water when the fyke net and lead is no longer in use.

Note: Commercial fishing districts are comprised of marine waters and some freshwaters; however, no commercial fishing district freshwaters are within or adjacent to Federal public lands.

Proposed Federal Regulation

§ __.27(e)(5) Bristol Bay Area

* * * *

(vi) Within any district, you may take salmon, herring, and capelin by set gillnets only.

*(vii) ~~Outside the boundaries of any district, u~~ Unless otherwise specified, you may take salmon by ~~set gillnet~~ **dip net, beach seine, and gillnet** only.*

(A) You may also take salmon by spear in the Togiak River, excluding its tributaries.

(B) You may also use drift gillnets not greater than 10 fathoms in length to take salmon in the Togiak River in the first 2 river miles upstream from the mouth of the Togiak River to the ADF&G regulatory markers.

(C) You may also take salmon without a permit in Sixmile Lake and its tributaries within and adjacent to the exterior boundaries of Lake Clark National Park and

Preserve unless otherwise prohibited, and Lake Clark and its tributaries, by snagging (by handline or rod and reel), using a spear, bow and arrow, rod and reel, or capturing by bare hand.

(D) You may also take salmon by beach seines not exceeding 25 fathoms in length in Lake Clark, excluding its tributaries.

(E) You may also take fish (except rainbow trout) with a fyke net and lead in tributaries of Lake Clark and the tributaries of Sixmile Lake within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited.

(1) You may use a fyke net and lead only with a permit issued by the Federal in-season manager.

(2) All fyke nets and leads must be attended at all times while in use.

(3) All materials used to construct the fyke net and lead must be made of wood and be removed from the water when the fyke net and lead is no longer in use.

Existing State Regulation

5 AAC 01.320. Bristol Bay Area – Lawful gear and gear specifications

(a) Within any district, salmon, herring, and capelin may be taken only by drift and set gillnets.

(b) Outside the boundaries of any district, salmon may be taken by set gillnet, except that salmon may also be taken as follows:

(1) in the Togiak River,

(A) excluding its tributaries, by spear;

(B) between the mouth of the river and upstream approximately two miles to a line across the river at 59_05.50' N. lat., by a drift gillnet that is not more than 10 fathoms in length;

(2) from August 30 through December 31, by spear, dip net, beach seine, and gillnet

(A) along the west shore of Naknek Lake near the outlet to the Naknek River between a line from 58_41.10' N. lat., 156_25.84' W. long. to 58_40.99' N.

lat., 156_ 25.46' W. long. upstream to a line from 58_ 41.36' N. lat., 156_ 25.81' W. long. to 58_ 41.13' N. lat., 156_ 25.85' W. long.;

(B) at Johnny's Lake on the northwestern side of Naknek Lake;

(C) at the outlet of Idavain Creek on the north side of Naknek Lake;

(3) from September 18 through December 31, by spear, dip net, beach seine, and gillnet at the mouth of Brooks River at Naknek Lake;

(4) at locations and times specified in (2) and (3) of this subsection,

(A) a gillnet may not exceed five fathoms in length and may not be anchored or tied to a stake or peg; and

(B) the permit holder must be present at the net while the net is being fished;

(5) by spear in Lake Clark, excluding its tributaries;

(6) by gillnet and beach seine in Iliamna Lake, Six Mile Lake, and Lake Clark;

(7) by dip net in the Igushik, Weary, and Snake Rivers upstream of the commercial fishing district; a dip net may not be operated from a vessel.

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 the Bristol Bay Area comprise fresh waters within and adjacent to the Togiak National Wildlife Refuge, Alaska Peninsula/Becharof National Wildlife Refuge, Alaska Peninsula National Wildlife Refuge, Alagnak Wild and Scenic River corridor, Katmai National Preserve, and Lake Clark National Park and Preserve. Most of Katmai National Park and Preserve is closed to Subsistence uses. General domain lands managed by the Bureau of Land Management in the Bristol Bay Area are only open on non-navigable waters (see **Bristol Bay Area Map**).

Customary and Traditional Use Determinations

Residents of the Nushagak District and the freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Nushagak District, including drainages flowing into the district.

Residents of the Naknek and Kvichak River drainages have a customary and traditional use determination for salmon and freshwater fish in the Naknek River drainage.

Residents of the Kvichak/Iliamna-Lake Clark drainage have a customary and traditional use determination for salmon and freshwater fish in the Lake Clark drainage.

Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak, have a customary and traditional use determination for salmon and freshwater fish in Togiak District, including drainages flowing into the district.

Residents of South Naknek, the Egegik District, and freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Egegik District, including drainages flowing into the district.

Residents of the Ugashik District and freshwaters drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Ugashik District, including drainages flowing into the district.

Residents of the Togiak District and freshwater drainages flowing into the district have a customary and traditional use determination for Herring spawn on kelp in the Togiak District.

Residents of the Bristol Bay Area have a customary and traditional use determination for all fish in the Remainder of the Bristol Bay Area.

Regulatory History

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in Federal public non-navigable waters (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations, which previously applied to those waters. The Bristol Bay Area regulations under consideration in this analysis were incorporated into the Federal regulations in this manner. In particular, the general language specific to allowable gear and gear specifications has not been modified since the promulgation of these regulations with some minor exceptions.

In 1999, the Board adopted these Federal regulations for fish in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5 [January 8, 1999]).

Board actions on Proposals FP07-05, FP07-07, FP07-06, FP08-12, and FP19-11 created exceptions to this general rule on allowable gear types for salmon (FSB 2005, 2007, 2008, 2019). This includes drift gillnets in the lower Togiak River, beach seines in the Lake Clark, snagging, spear, bow and arrow, and hand capture in Lake Clark and its tributaries, wooden fyke net with leads in tributaries of Lake Clark and tributaries of Sixmile Lake within and adjacent to the external boundaries of Lake Clark National Park and Preserve, and extending the allowance for snagging, spear, bow and arrow and hand capture to Sixmile Lake and its tributaries within and adjacent to the external boundaries of Lake Clark National Park and Preserve, respectively.

Current Events

Fisheries Proposal FP21-05, also submitted by the Bristol Bay Native Association, requests that the Board simplify Federal regulations by removing regulations that imply the Board has authority to regulate subsistence fishing in the marine waters of fishing districts. Should both FP21-05 and FP21-06 be passed by the Board, regulatory language for both proposals would be modified to reflect those changes.

Biological Background

There are numerous fish stocks in the Bristol Bay Area that are targeted by subsistence, sport, and commercial fisheries. In general, all salmon stocks are in a productive period. There are no specific conservation concerns to report at this time.

Cultural Knowledge and Traditional Practices

The Bristol Bay region is culturally complex. The watershed and boundaries encompass the traditional homelands of Yup'ik, Dena'ina, and Alutiiq people. The contemporary settlements are situated along shorelines and waterways, strategically positioned to access the bountiful salmon runs that remain some of the strongest in the state. Permanent communities include Aleknagik, Clarks Point, Dillingham, Egegik, Ekwok, Igiugig, Iliamna, King Salmon, Koliganek, Kokhanok, Levelock, Monokotak, New Stuyahok, Naknek, Newhalen, Nondalton, Pedro Bay, Pilot Point, Portage Creek, Port Alsworth, Togiak, Twin Hills, and Ugashik.

The ADF&G, Division of Subsistence conducts comprehensive subsistence surveys periodically throughout Alaska. Though these survey data are only available for some communities in some years, it is an additional source for documenting patterns of use in rural Alaska. The most recent round of surveys for the Bristol Bay region took place in five phases beginning in 2005 for the 2004 data year and completing the final phase of field work in Dillingham for the 2010 data year (Evans et al. 2013). A total of 17 communities were surveyed. For all communities surveyed, salmon comprised a significant portion of the total annual harvest ranging from a high of 82% of the harvest in King Salmon (Holen, Krieg, and Lemmons 2011) to approximately 29% of the harvest in Levelock (Krieg et al. 2009). Per capita harvests of salmon were significant and ranged from 637 lb. per person in Clarks Point (Holen et al. 2012) to 89 lb. per person in Port Alsworth (Fall et al. 2006).

The surveys also document gear types used to harvest salmon. The majority of salmon harvested by the surveyed communities were taken with setnet, followed by removal from commercial catch, and lastly, some communities also used rod and reel to provide salmon for home use.

Vanstone, writing from historical accounts (late 1800s) of life in the Nushagak River watershed, described the traditional methods for harvesting salmon from the month of June onward. He reports people fishing with traps at the mouth of the Nushagak River, while those people living further upriver at "the rapids" fished with spears and dip nets (Van Stone 1967).

During the fall 2018 Bristol Bay Subsistence Regional Advisory Council meeting, Council member Dunaway shared his thoughts on a recently submitted proposal to the Alaska Board of Fisheries, requesting dip nets be allowed gear for subsistence salmon fishing “locally”. He explained that providing opportunity for the use of dip nets could reduce gear cost, lessen crowding in the subsistence set net areas, and allow for selective harvest of target fish like Sockeye and Coho Salmon, especially during Pink Salmon returns (BBSRAC 2018:10).

Harvest History

A State subsistence permit is required for subsistence salmon harvest in the Bristol Bay Area under both Federal and State regulations. Annual harvest is reported in the Area Management Reports that are provided by the Alaska Department of Fish and Game, Division of Commercial Fisheries, the latest of which covers the 2018 season (Salomone et al. 2019). Subsistence harvest is reported by commercial district for the Bristol Bay Area, which consists of the Naknek-Kvichak, Egegik, Ugashik, Nushagak, and Togiak Districts.

Total Bristol Bay subsistence permit issuance and harvest of Sockeye, Chinook, Chum, Pink, and Coho salmon has shown a very slight downward trend over the most recent two 10-year time periods available (1998-2007 and 2008-2017). Permit issuance increased slightly in two districts (Nushagak and Togiak) between the two time periods, while it has decreased in the other three (Naknek-Kvichak, Egegik, and Ugashik). Harvests correlate directly to permit issuance in all of these areas over this time period, where an increase or decrease in number of permits equates to an increase or decrease in the harvest of each salmon species. Average annual subsistence harvest of all salmon species in the Bristol Bay Area over the ten-year period from 1998 to 2007 was 127,895 fish, while the 2008- 2017 average dropped to 124,632, and the most recent five-year average through 2018 was 124,498.

Effects of the Proposal

If Proposal FP21-06 is adopted, people will be able to legally harvest salmon with drift gillnets, dip nets, and beach seines, in addition to set nets, in Federal public waters throughout the Bristol Bay Area. This is likely to increase the efficiency of harvest for some fishers but the size of the effect is unknown.

If Proposal FP21-06 is not adopted, subsistence users will be limited to using set nets only, with some exceptions, to harvest salmon.

OSM CONCLUSION

Support Proposal FP21-06 with modification to clarify which gear may be used to take salmon by also eliminating the word “salmon” from the regulation at § __.27(e)(5)(vi).

The modified regulation should read:

§ __.27(e)(5) *Bristol Bay Area*

* * * *

(vi) *Within any district, you may take ~~salmon~~, herring, and capelin by set gillnets only.*

(vii) *~~Outside the boundaries of any district, u~~ Unless otherwise specified, you may take salmon by ~~set gillnet~~ **dip net, beach seine, and gillnet** only.*

(A) *You may also take salmon by spear in the Togiak River, excluding its tributaries.*

(B) *You may also use drift gillnets not greater than 10 fathoms in length to take salmon in the Togiak River in the first 2 river miles upstream from the mouth of the Togiak River to the ADF&G regulatory markers.*

(C) *You may also take salmon without a permit in Sixmile Lake and its tributaries within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited, and Lake Clark and its tributaries, by snagging (by handline or rod and reel), using a spear, bow and arrow, rod and reel, or capturing by bare hand.*

(D) *You may also take salmon by beach seines not exceeding 25 fathoms in length in Lake Clark, excluding its tributaries.*

(E) *You may also take fish (except rainbow trout) with a fyke net and lead in tributaries of Lake Clark and the tributaries of Sixmile Lake within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited.*

(1) *You may use a fyke net and lead only with a permit issued by the Federal in-season manager.*

(2) *All fyke nets and leads must be attended at all times while in use.*

(3) *All materials used to construct the fyke net and lead must be made of wood and be removed from the water when the fyke net and lead is no longer in use.*

Justification

Adoption of this proposal as modified by OSM would clarify the types of gear allowed for the harvest of salmon in the Bristol Bay Area by Federal subsistence users, making the regulations more straightforward and easy to understand. It would also simplify regulations for salmon harvest by having them apply throughout the area, rather than the current divide within and outside of commercial fishing districts, again decreasing unnecessary regulatory complexity. All gear types allowed under this proposal are regularly used for the harvest of salmon and would provide additional options for Federally qualified subsistence users to harvest in the most economical and efficient manner. There is no conservation concern associated with these changes.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Bristol Bay Subsistence Regional Advisory Council

Oppose FP21-06. The Council opposes this proposal stating it is too broad in scope and does not address specific issues including salmon management and conservation concerns in some vulnerable drainages.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-06: This proposal revises the Federal subsistence fishing regulations for the Bristol Bay Area to specify that salmon may be taken by dip net, beach seine, and gillnet only, unless otherwise specified.

Introduction: The proponent is seeking to clarify the fishing methods and means available in the Bristol Bay Area under the Federal subsistence regulations. They contend that the existing regulations are more restrictive than the State subsistence regulations, and this change will simplify restricted methods of harvesting salmon on inland waters within or adjacent to Federal Public Lands and Conservation System Units in Bristol Bay.

Impact on Subsistence Users: Adoption of this proposal would liberalize methods and means by which salmon may be harvested in the Federal subsistence fishery.

Impact on Other Users: None

Opportunity Provided by State:

5 AAC 01.320. Bristol Bay Area – Lawful gear and gear specifications

(a) Within any district, salmon, herring, and capelin may be taken only by drift and set gillnets.

(b) Outside the boundaries of any district, salmon may be taken by set gillnet, except that salmon may also be taken as follows:

(1) in the Togiak River,

(A) excluding its tributaries, by spear;

(B) between the mouth of the river and upstream approximately two miles to a line across the river at 59_05.50' N. lat., by a drift gillnet that is not more than 10 fathoms in length;

(2) from August 30 through December 31, by spear, dip net, beach seine, and gillnet

(A) along the west shore of Naknek Lake near the outlet to the Naknek River between a line from 58_41.10' N. lat., 156_25.84' W. long. to 58_40.99' N. lat., 156_25.46' W. long. upstream to a line from 58_41.36' N. lat., 156_25.81' W. long. to 58_41.13' N. lat., 156_25.85' W. long.;

(B) at Johnny's Lake on the northwestern side of Naknek Lake;

(C) at the outlet of Idavain Creek on the north side of Naknek Lake;

(3) from September 18 through December 31, by spear, dip net, beach seine, and gillnet at the mouth of Brooks River at Naknek Lake;

(4) at locations and times specified in (2) and (3) of this subsection,

(A) a gillnet may not exceed five fathoms in length and may not be anchored or tied to a stake or peg; and

(B) the permit holder must be present at the net while the net is being fished;

(5) by spear in Lake Clark, excluding its tributaries;

(6) by gillnet and beach seine in Iliamna Lake, Six Mile Lake, and Lake Clark;

(7) by dip net in the Igushik, Weary, and Snake Rivers upstream of the commercial fishing district; a dip net may not be operated from a vessel.

Conservation Issues: While populations of sockeye salmon in Bristol Bay are robust, Chinook salmon abundance has been below average. Allowing these additional gear types would make Chinook salmon more susceptible to harvest.

Enforcement Issues: The conflict that would result between state and federal regulations as a result of this proposal could cause confusion among subsistence users and enforcement inconsistencies.

Recommendation: ADF&G **OPPOSES** this proposal. It would open all federal waters in Bristol Bay to the use of drift gillnets, beach seines and dip nets to harvest salmon for subsistence purposes where currently only set gillnets are allowed. The Department recommends the better course of action would be to examine specific areas to be considered for additional gear type use as has been previously done with the exemptions listed in the regulations above. The Department is concerned this will allow

people to drift gillnet through salmon spawning beds, chase salmon through shallow streams with dipnets, beach seine spawning salmon and many other possibilities. These methods would likely increase mortality and potentially disrupt spawning behavior. Salmon are typically protected once they reach spawning areas. To allow additional gear types to be used in vast areas with no sideboards is very concerning biologically. It is unclear how much use there might be with these gear types in these areas. When subsistence fishing with drift gillnets was allowed in the Togiak River the open area was specifically restricted to the lower two miles of that river to avoid drift gillnetting through spawning salmon. This proposal would also create inconsistencies between State and Federal subsistence regulations.

FP21-07 Executive Summary	
General Description	Proposal FP21-07 requests that the Federal Subsistence Board (Board) revise the Federal subsistence fishing regulations for the Bristol Bay Area by removing the scheduled fishing closures in the Egegik River at § __.27(e)(5)(iii). <i>Submitted by: Bristol Bay Native Association.</i>
Proposed Regulation	<p>§ __.27(e)(5) Bristol Bay Area</p> <p>* * * *</p> <p><i>(iii) In the Egegik River from 9 a.m. June 23 through 9 a.m. July 17, you may take salmon only during the following times: From 9 a.m. Tuesday to 9 a.m. Wednesday and from 9:00 a.m. Saturday to 9 a.m. Sunday.</i></p>
OSM Conclusion	Support
Bristol Bay Subsistence Regional Advisory Council Recommendation	Support
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Support
Written Public Comments	None

STAFF ANALYSIS
FP21-07

ISSUES

Proposal FP21-07, submitted by the Bristol Bay Native Association, requests that the Federal Subsistence Board (Board) revise the Federal subsistence fishing regulations for the Bristol Bay Area by removing the scheduled fishing closures in the Egegik River at § __.27(e)(5)(iii).

DISCUSSION

The proponent is seeking updates to the Federal subsistence fishing regulations by removing existing closures to fishing for subsistence between June 23 and July 17. They state that there are no scheduled subsistence closures in the Egegik River under State regulations, making the Federal subsistence fishery more restrictive, and that resource scarcity is not an issue in these waters.

Existing Federal Regulation

§ __.27(e)(5) Bristol Bay Area

* * * *

(iii) In the Egegik River from 9 a.m. June 23 through 9 a.m. July 17, you may take salmon only during the following times: From 9 a.m. Tuesday to 9 a.m. Wednesday and from 9:00 a.m. Saturday to 9 a.m. Sunday.

Proposed Federal Regulation

§ __.27(e)(5) Bristol Bay Area

* * * *

~~(iii) In the Egegik River from 9 a.m. June 23 through 9 a.m. July 17, you may take salmon only during the following times: From 9 a.m. Tuesday to 9 a.m. Wednesday and from 9:00 a.m. Saturday to 9 a.m. Sunday.~~

Existing State Regulation

5 AAC 01.310. Fishing seasons and periods

(a) Unless restricted in this section and 5 AAC 01.325, or unless restricted under the terms of a subsistence fishing permit, fish, other than rainbow trout, may be taken at any time in the Bristol Bay Area.

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 for the Egegik River comprise those waters adjacent to and within the boundaries of the Becharof National Wildlife Refuge. These waters start just downstream of the outlet of Becharof Lake.

Customary and Traditional Use Determinations

Rural residents of South Naknek, the Egegik District, and freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish for the Egegik District, including drainages flowing into the district.

Regulatory History

In December 2003, through Proposal F2004-15, a Customary and Traditional Use determination was made for salmon and freshwater fish for the Egegik District (OSM 2003). The Board adopted the proposal with the staff modification to include residents of South Naknek into the determination. There have been no other relevant regulatory actions related to the Egegik River.

Biological Background

The Egegik River watershed, which includes Becharof Lake and drains into the Egegik District in Bering Sea, is one of the major salmon producers in the Bristol Bay Area. The system supports populations of Chum, Coho, Chinook, Sockeye, and Pink salmon, as well as Dolly Varden, Arctic Lamprey, and Pond Smelt (Johnson and Blossom 2018). Sockeye Salmon are by far the largest salmon run in the system. Escapements to the Egegik River, not including those fish harvested by the commercial, subsistence and sport fisheries, have ranged in size from 927,000 to 2,601,000 Sockeye Salmon between 1998 and 2018 (Salomone et al. 2019). The escapement goal for the system is a range from 800,000 to 2,000,000 Sockeye Salmon. There are no specific biological concerns for any of the Egegik salmon runs at this time.

Harvest History

A State subsistence permit is required for subsistence salmon harvest in the Bristol Bay Area under both Federal and State regulations. Annual harvest is reported in the Area Management Reports that are provided by the Alaska Department of Fish and Game, Division of Commercial Fisheries, the most recent covers through the 2018 season (Salomone et al. 2019). The number of subsistence permits issued for the Egegik District have declined over the last 20 year reporting period, with an average of 44 permits issued between 1998 and 2007, and 34 between 2008 and 2017. The primary salmon

species harvested is Sockeye Salmon. The declining numbers of permits has carried over to declining harvests reported. For Sockeye Salmon, the 1998-2007 harvest averaged 2,020 fish, while the 2008-2017 harvest averaged 1,283 fish. For Chinook, Chum, Pink, and Coho the 1998-2007 averages are 93, 100, 22, and 596, while the 2008-2017 averages are 84, 22, 5, and 266, respectively. The average composition of salmon harvested in Egegik River is 2% of the total Bristol Bay Area salmon harvest from 1998-2007.

While the trend for reported subsistence harvest appears to be declining, it does not appear that this is based on declining returns because the Sockeye Salmon escapements for the system over the two time periods actually show a very slight increasing trend (1998-2007: 1,281,518 fish; 2008-2017: 1,335,777 fish). Rather, it appears that reported participation in this fishery has declined.

Commercial catches of Sockeye Salmon in the Egegik District over this period have ranged from 2,291,502 to 11,980,502 Sockeye Salmon. The 20-year (1998-2017) average commercial harvests for the other salmon species are: 636 Chinook Salmon; 69,510 Chum Salmon; 956 Pink Salmon; and 13,181 Coho Salmon.

Effects of the Proposal

Federal subsistence fishing regulations for the Egegik River currently restrict harvest opportunities between June 23 and July 17 to 9 a.m. Tuesday to 9 a.m. Wednesday and 9 a.m. Saturday to 9 a.m. Sunday. If the Board adopts this proposal, these restrictions will be removed and harvest opportunity will be available at all times. This would align with current State subsistence regulations in place for this area. It is unlikely that this change would result in a substantial increase in harvest since Federally qualified subsistence users can travel the short distance to harvest fish under State regulations and there is only a small portion of the Egegik River that is within or adjacent to Becharof National Wildlife Refuge.

OSM CONCLUSION

Support Proposal FP21-07.

Justification

Removal of this restriction for the Egegik River will provide additional harvest opportunity and more closely align with State subsistence regulations in the area. There would be no real effect in harvest after aligning Federal and State regulations. Current use of these resources for subsistence purposes is small compared to the run sizes and harvest in adjacent commercial fisheries. There are no conservation concerns at this time.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Bristol Bay Subsistence Regional Advisory Council

Support FP21-07. The Council supports this proposal stating that it will reduce user confusion, remove inconsistency in regulations, and avoid possible legal confusion in current regulations.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-07: This proposal revises the Federal subsistence fishing regulations for the Bristol Bay Area by removing the scheduled fishing closures in the Egegik River.

Introduction: The proponent is seeking updates to the Federal subsistence fishing regulations by removing existing closures to fishing for subsistence between June 23 and July 17. They state that there are no scheduled subsistence closures in the Egegik River under State regulations, making the Federal subsistence fishery more restrictive, and that resource scarcity is not an issue in these waters.

Impact on Subsistence Users: Adoption of these proposals could clarify regulations for subsistence users by aligning State and Federal subsistence fishing opportunity in this area.

Impact on Other Users: This would not affect commercial fishing opportunity as commercial fishing districts are outside Federal subsistence jurisdiction. Additionally, this proposal would not likely have a significant effect on sport fishing opportunity due to the small area under Federal subsistence jurisdiction that will be impacted by this proposed liberalization.

Opportunity Provided by State:

5 AAC 01.310. Fishing seasons and periods

(a) Unless restricted in this section and 5 AAC 01.325, or unless restricted under the terms of a subsistence fishing permit, fish, other than rainbow trout, may be taken at any time in the Bristol Bay Area.

Conservation Issues: There do not appear to be any conservation issues associated with this proposal.

Enforcement Issues: There do not appear to be any enforcement issues associated with this proposal.

Recommendation: ADF&G **SUPPORTS** this proposal. It would remove inconsistencies between State and Federal subsistence regulations.

FP21-08 Executive Summary	
General Description	Proposal FP21-08 requests that the Federal Subsistence Board (Board) remove the area wide closure to the taking of fish at the mouths of streams used by salmon. <i>Submitted by: Bristol Bay Native Association.</i>
Proposed Regulation	<p style="text-align: center;">§ __.27(e)(5) Bristol Bay Area</p> <p style="text-align: center;">* * * *</p> <p style="text-align: center;"><i>(iv) You may not take fish from waters within 300 feet of a stream mouth used by salmon.</i></p>
OSM Conclusion	Support FP21-08
Bristol Bay Subsistence Regional Advisory Council Recommendation	Oppose
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Oppose
Written Public Comments	None

**STAFF ANALYSIS
FP21-08**

ISSUES

Proposal FP21-08, submitted by the Bristol Bay Native Association, requests that the Federal Subsistence Board (Board) remove the area wide closure to the taking of fish at the mouths of streams used by salmon.

DISCUSSION

The proponent states that taking fish near stream mouths is a common practice and that the areas of closure under Federal subsistence fishing regulations are more restrictive than under State subsistence regulations. They commented that this regulation is a relic of old commercial fishing regulations and should be repealed. Lastly, they believe that the general provisions in §___.27(b)(4) already provide the conservation intent that this regulation may have been trying to achieve by prohibiting obstruction of more than one-half the width of any stream with any gear used to take fish for subsistence purposes.

Existing Federal Regulation

§___.27(e)(5) Bristol Bay Area

* * * *

(iv) You may not take fish from waters within 300 feet of a stream mouth used by salmon.

Proposed Federal Regulation

§___.27(e)(5) Bristol Bay Area

* * * *

(iv) You may not take fish from waters within 300 feet of a stream mouth used by salmon.

Existing State Regulation

5 AAC 01.325. Waters closed to subsistence fishing

(a) Except for the western shore of the Newhalen River, waters within 300 feet of a stream mouth used by salmon are closed to the subsistence taking of fish.

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 the Bristol Bay Area comprise fresh waters within and adjacent to the Togiak National Wildlife Refuge, Becharof National Wildlife Refuge, Alaska Peninsula National Wildlife Refuge, Alagnak Wild and Scenic River corridor, Katmai National Preserve, and Lake Clark National Park and Preserve. Most of Katmai National Park and Preserve is closed to Subsistence uses. General domain lands managed by the Bureau of Land Management in the Bristol Bay Area are only open on non-navigable waters (see **Bristol Bay Area Map**).

Customary and Traditional Use Determinations

Residents of the Nushagak District and the freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in Nushagak District and freshwater drainages flowing into the district.

Residents of the Naknek and Kvichak River drainages have a customary and traditional use determination for salmon and freshwater fish in the Naknek-Kvichak District – Naknek River drainage.

Residents of the Kvichak/Iliamna-Lake Clark drainage have a customary and traditional use determination for salmon and freshwater fish in the Naknek-Kvichak District- Kvichak/Iliamna- Lake Clark drainage.

Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak, have a customary and traditional use determination for salmon and freshwater fish in Togiak District, including drainages flowing into the district.

Residents of South Naknek, the Egegik District, and freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Egegik District, including drainages flowing into the district.

Residents of the Ugashik District and freshwaters drainages flowing into that district have a customary and traditional use determination for salmon and freshwater fish in the Ugashik District and freshwater drainages flowing into that district.

Residents of the Bristol Bay Area have a customary and traditional use determination for all fish in the Remainder of the Bristol Bay Area.

Regulatory History

In 1941 fisheries management in Alaska was transferred to the United States Fish and Wildlife Service (USFWS). In the Bureau of Fisheries agent annual reports, it was not clear how enforcement agents distinguished between illegal commercial operations and legitimate subsistence fishing efforts during closed commercial fishing periods. The Bureau of Fisheries recommended that no one fishing

commercially during the summer season could also fish for dogfood or local food requirements except in strict compliance with regulations for the taking of fish commercially (Seitz 1990). The Bureau of Fisheries generally referred to subsistence efforts of local residents as “fishing for dog feed” and rarely as fishing for human consumption. The emphasis was the economic importance of the commercial fishery. In the 1950s, more restrictions on subsistence fishing were implemented by the Bureau of Fisheries. For example, allowable gear was limited only to hand, rods, spears or gaffs during closed commercial periods.

In 1960, Alaska Department of Fish and Game (ADF&G) took over management of fisheries from the Federal government, and continued the pattern set by USFWS of allowing subsistence fishing within the commercial district only if it was done with legal commercial gear during open commercial fishing periods. Additional restrictions were imposed, and in 1965, a permit was required for all subsistence fishing, which would be given if ADF&G deemed the fishing “compatible with proper utilization of stocks;” waters within 300 feet of any stream mouth were closed to all subsistence fishing, and nets were prohibited from obstructing more than ½ the width of any stream (Seitz 1990). Seitz (1990) observed that Federal and State regulations in the Nushagak District of Bristol Bay have primarily been for the purpose of conserving the fisheries and managing the commercial harvest.

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in Federal public non-navigable waters. (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations. The Bristol Bay Area regulations under consideration were incorporated into the Federal regulations in this manner. In particular, the language specific to taking fish from waters within 300 feet of a stream mouth used by salmon has not been modified since the promulgation of these regulations. This restriction does not exist in the area regulations for any of the other 12 Federal subsistence fishing areas in Alaska.

In 1999, the Federal Subsistence Board adopted Federal regulations for fish in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5 [January 8, 1999]).

Currently, the harvest of fish within 300 feet of a stream mouth used by salmon is legal only under State sport fishing regulated legal gear and harvest limits, ice fishing included.

Biological Background

There are numerous fish stocks in the Bristol Bay Area that are targeted by subsistence, sport, and commercial fisheries.

Salmon migrating to spawning locations are known to become bank-oriented when preparing to move from larger stream segments to smaller tributaries as they head towards spawning areas. They also occasionally exhibit holding behaviors near mouths of streams before preparing to enter those streams.

Cultural Knowledge and Traditional Practices

The Bristol Bay region is culturally complex. The watershed and boundaries encompass the traditional homelands of Yup’ik, Dena’ina, and Alutiiq people. Contemporary settlements are situated along

shorelines and waterways, strategically positioned to access the bountiful salmon runs that remain some of the strongest in the state. Permanent communities include Aleknagik, Clarks Point, Dillingham, Egegik, Ekwok, Igiugig, Iliamna, King Salmon, Koliganek, Kokhanok, Levelock, Monokotak, New Stuyahok, Naknek, Newhalen, Nondalton, Pedro Bay, Pilot Point, Portage Creek, Port Alsworth, Togiak, Twin Hills, and Ugashik.

The ADF&G, Division of Subsistence conducts subsistence harvest surveys periodically throughout Alaska. Though these survey data are only available for some communities in some years, it is an additional source for documenting patterns of use in rural Alaska. For all communities recently surveyed in the Bristol Bay region, fish comprised a significant portion of the total annual harvest, ranging from a high of 87% of the harvest in Iliamna (Fall et al. 2006) to approximately 37% of the harvest in Levelock (Krieg et al. 2009). Most of the fish harvested in any community were salmon. Per capita harvests of salmon were significant and ranged from 89 lbs. per person in Port Alsworth (Fall et al. 2006) to 637 pounds per person in Clarks Point (Holen et al. 2012).

The subsistence harvest surveys also document harvest and use areas for each resource harvested or searched for during the study year. In some communities, harvest of fish year-round took place near or at the mouths of rivers and productive streams for both salmon and non-salmon species. During the study year of 2008, Togiak residents harvested and searched for salmon from Togiak Bay at the mouth of the Togiak River and up. Non-salmon harvest took place primarily at or near the mouth of the Togiak River (Fall et al. 2012). In Manokotak, also for the 2008 study year, many households documented harvesting salmon at the mouth of the Igushik River (Holen et al. 2012). Given that many traditional communities were strategically located on waterways and river or stream outlets in order to harvest local fish and be well positioned for annual salmon returns, the practice of fishing at or near the mouths of rivers and waterways is understood as customary and traditional. Such practice was documented by Vanstone's historical accounts of life along the Nushagak River watershed (VanStone 1967). He reports people fishing for salmon with traps at the mouth of the Nushagak River during the summer months. During the fall and into the winter, people fished for whitefish, arctic grayling and trout through the river and lake ice.

Harvest History

Salmon. A State subsistence permit is required for subsistence salmon harvest in the Bristol Bay Area under both Federal and State regulations. Annual harvest is reported in the Area Management Reports that are provided by ADF&G, Division of Commercial Fisheries. The most recent report covers through the 2018 season (Salomone et al. 2019). Subsistence harvest is reported by commercial district for the Bristol Bay Area, which consists of the Naknek-Kvichak, Egegik, Ugashik, Nushagak, and Togiak Districts.

Total Bristol Bay subsistence permit issuance and harvest of Sockeye, Chinook, Chum, Pink, and Coho salmon has shown a very slight downward trend over the most recent two 10-year time periods available (1998 - 2007 and 2008 - 2017). Permit issuance increased slightly in two districts (Nushagak and Togiak) between the two time periods, while it has decreased in the other three (Naknek-Kvichak, Egegik, and Ugashik). Harvests correlate directly to permit issuance in all of these areas over this time

period, where an increase or decrease in number of permits equates to an increase or decrease in the harvest of each salmon species. Average annual subsistence harvest of all salmon species in the Bristol Bay Area over the five-year period from 2013 - 2017 was 122,342 fish, while 2016 and 2017 average dropped to 115,965 which are among the lowest harvests recorded since 2010 (113,238) and 2002 (109,587).

Table 1. The estimated use and harvest of fishes other than salmon in the Bristol Bay Area.

Community	Study Year	Percentage of households					Average pounds harvested	
		Use	Fish for	Harvest	Receive	Give	Per Household	Per Person
Alegnagik	2008	78	69	66	50	44	95	26
Clarks Point	2008	100	100	100	73	73	71	34
Dillingham	2010	69	42	42	53	29	23	7
Egegik	2014	75	65	60	24	35	219	77
Ekwok	1987	76	72	62	62	38	229	69
Igiugig	2013	94	78	61	83	61	14	5
Iliamna	2013	79	69	69	59	31	79	30
King Salmon	2007	57	55	49	16	12	15	5
Kokhanok	2005	74	66	66	51	57	137	36
Koliganek	2005	96	93	93	75	68	323	90
Levelock	2005	86	86	86	50	57	71	40
Manokotak	2008	93	80	80	84	56	173	44
Naknek	2007	76	68	65	48	32	47	18
New Stuyakok	2005	88	78	78	67	47	123	28
Newhalen	2013	88	70	67	73	33	38	12
Nondalton	2013	84	73	73	62	60	147	45
Pedro Bay	2013	73	64	46	55	36	41	17
Pilot Point	2014	76	53	53	35	35	118	43
Port Alsworth	2013	41	37	37	14	8	14	4
Port Heiden	2018	41	26	26	26	26	9	3
South Naknek	2007	86	52	52	67	43	16	8
Togiak	2008	94	85	84	81	73	264	62
Twin Hills	1999	92	92	92	75	92	303	101

Non-salmon. Not all subsistence harvests of fish other than salmon are monitored by ADF&G; however, subsistence harvest surveys can provide an estimate of harvest and use for the year a survey was conducted. **Table 1** describes the percentage of community households that used, fished for, received, and gave fish other than salmon for the most recent year that data are available. It also describes the average pounds harvested per household and the average pounds harvested per person.

Most households from every community reported using non-salmon fish during each study year. This use ranged from 41% of households in Port Alsworth and Port Heiden to 100% of households in Clarks Point. Sharing of non-salmon fish was also very important for the communities in the Bristol Bay Area with 14% to 100% of households reporting to have received fish and an estimated 8% to 92% of households reporting to have given fish during their study years. Estimated annual household harvests of non-salmon fish have ranged from a low of 9 pounds in Port Heiden to a high of 323 lbs. in Koliganek.

Effects of the Proposal

This proposal, if adopted, would remove the existing prohibition on taking fish within 300 feet of a stream mouth used by salmon for Federally qualified subsistence users in the Bristol Bay Area. There is a similar restriction in State subsistence regulations, and removal would make Federal regulations less restrictive. This would not affect commercial harvest as there is a general commercial fishing restriction that prohibits fishing within 500 feet of a salmon stream mouth.

If adopted, the harvest of fish near stream mouths by Federally qualified subsistence users may increase on waters within and adjacent to Federal public lands. As fish often hold or become bank-oriented in areas near stream mouths, allowing harvest in these areas would increase efficiency. Conversely, this may create a situation that is detrimental to smaller stocks if the harvest is large or multiple users target the same stock. There is a general regulation that prohibits obstructing more than one-half the width of any stream with any gear used to take fish that would provide some level of conservation to these stocks.

If adopted, this proposal will align the Bristol Bay area restrictions regarding closures at stream mouths with the area restrictions for all other areas in the Federal subsistence fishing regulations for Alaska.

OSM CONCLUSION

Support Proposal FP21-08.

Justification

Both salmon and non-salmon fish are an important resource for the communities of the Bristol Bay Area and fishing at or near the mouths of rivers and streams is just one of the many customary and traditional practices area residents use to harvest fish for subsistence purposes. Adopting this proposal would provide additional opportunity to harvest fish for Federally qualified subsistence users, and removal of the restriction would make Federal regulations less restrictive than State regulations. Currently there is no conservation concern.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Bristol Bay Subsistence Regional Advisory Council

Oppose FP21-08. The Council opposed the proposal stating it is too broad in scope and does not address specific issues stemming from salmon management and conservation concerns.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-08: This proposal removes the area-wide closure to the taking of fish at the mouths of streams used by salmon.

Introduction: This proponent seeks to remove the existing prohibition on taking fish within 300 feet of a stream mouth used by salmon for Federally qualified subsistence users in the Bristol Bay Area. There are similar restrictions in the State subsistence regulations, and removal would make the Federal regulations less restrictive.

Impact on Subsistence Users: Adoption of these proposals could potentially create confusion among subsistence users by having different closed waters requirements in State and Federal regulations.

Impact on Other Users: This would not affect commercial fishing opportunity as commercial fishing districts are outside Federal subsistence jurisdiction. This may reduce abundance of fish available for all users fishing upstream of any stream mouth. This may also result in additional restrictions to all fisheries if this new harvest opportunity results in a conservation concern.

Opportunity Provided by State:

5 AAC 01.325. Waters closed to subsistence fishing

(a) Except for the western shore of the Newhalen River, waters within 300 feet of a stream mouth used by salmon are closed to the subsistence taking of fish.

Conservation Issues: Large schools of fish commonly hold at the mouths of streams and sloughs both in lakes and rivers in Bristol Bay. For this reason, sport fishing regulations such as 5 AAC 67.022(d)(9) for example, exist specifically to protect fish holding at the mouths of streams. Large

aggregations of pre-spawning fish have historically been protected from harvest to reduce stress on the animals while holding in vulnerable locations as they prepare to enter their spawning areas. To remove this protection would potentially expose these holding fish to additional stress as they are easily targeted in these locations. Additionally, if FP21-06 were to be approved in conjunction with this proposal, these areas would be open to drift gillnets, beach seines and dipnets as well. The potential for a significant increase in harvest and mortality on fish in these vulnerable areas is high and may present a conservation concern.

Enforcement Issues: The conflict that would result between state and federal regulations as a result of this proposal could cause confusion among subsistence users and enforcement inconsistencies.

Recommendation: ADF&G **OPPOSES** this proposal. This regulatory change would diverge considerably from State regulations and create confusion among subsistence users. It would also expose salmon holding at river mouths to the likelihood of excessive harvest and therefore conservation concerns for certain salmon stocks.

FP21–09 Executive Summary	
General Description	Proposal FP21-09 requests that the Federal Subsistence Board revise the Federal subsistence fishing regulations for Kenai River Chinook Salmon in the Cook Inlet Area (§ ____.27(e)(10)) to replace the designations of early-run and late-run with specific dates. <i>Submitted by: Kenai Fish and Wildlife Conservation Office, U.S. Fish and Wildlife Service (USFWS).</i>
Proposed Regulation	<i>Reference page 2 – 5</i>
OSM Conclusion	Support
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	Support
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Neutral
Written Public Comments	None

**STAFF ANALYSIS
FP21-09**

ISSUES

Proposal FP21-09, submitted by the Kenai Fish and Wildlife Conservation Office, U.S. Fish and Wildlife Service (USFWS), requests that the Federal Subsistence Board (Board) revise the Federal subsistence fishing regulations for Kenai River Chinook Salmon in the Cook Inlet Area (§ ____.27(e)(10)) to replace the designations of early-run and late-run with specific dates.

DISCUSSION

The proponent states that this administrative change will remove confusing and outdated regulatory language about early- and late-run Chinook Salmon. There is considerable geographic and temporal overlap for both stocks within waters under Federal subsistence fisheries jurisdiction even though Federal regulations define separate seasons and harvest limits, leading to confusion. They suggest that this change will limit confusion and achieve conservation for this species throughout their residence in fresh waters, and will make it easier for Federally qualified subsistence users to understand when, where, and how they are able to harvest Chinook Salmon in the Kenai River.

Existing Federal Regulation

§ ____.27(e)(10) Cook Inlet Area

* * * *

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

<i>Species</i>	<i>Number of fish allowed for each permit holder</i>	<i>Additional fish for each household member</i>	<i>Additional provisions</i>
	* * * *	* * * *	* * * *
<i>Chinook salmon–Early run (July 1</i>	<i>2</i>	<i>1</i>	<i>For the Kenai River community gillnet fishery described under</i>

through July
15)

paragraph (e)(10)(iii)(B)
of this section

Chinook
salmon–Late
run (July 16
through August
31)

10

2

* * * * *

* * * * *

* * * * *

* * * * *

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

(1) You may take only sockeye salmon through a dip net or rod and reel fishery at one specified site on the Russian River.

(i) For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses, except for early- and late-run Chinook salmon, coho salmon, rainbow trout, and Dolly Varden, which must be released.

* * * * *

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

(i) For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence uses, except for early-run Chinook salmon (unless otherwise provided for in this section), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released.

* * * * *

(3) Fishing seasons are as follows:

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

(B) Kenai River gillnet; salmon.

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

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

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

Late-run Chinook salmon July 16-August 15

Fishery will close prior to August 15 if 200 late-run Chinook salmon have been retained or released prior to that date. Fishery will reopen September 10-30 for species available at that time

(C) Kenai River rod and reel only; salmon.

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

Species	Size	Limits
Chinook salmon–Early-run (January 1 through July 15)	Less than 46 inches or 55 inches and longer	2 per day and 2 in possession
Chinook salmon–Late-run (July 16 through August 31)	20 inches and longer	2 per day and 2 in possession

(ii) Annual harvest limits for any combination of early- and late-run Chinook salmon are four for each permit holder.

* * * *

Proposed Federal Regulation

§ __.27(e)(10) Cook Inlet Area

* * * *

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

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

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

(1) You may take only sockeye salmon through a dip net or rod and reel fishery at one specified site on the Russian River.

(i) For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses, except for ~~early and late run~~ Chinook salmon, coho salmon, rainbow trout, and Dolly Varden, which must be released.

* * * *

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

(i) For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence uses, except for ~~early run~~ Chinook salmon **prior to July 16** (unless otherwise provided for in this section), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released.

* * * *

(3) Fishing seasons are as follows:

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

(B) Kenai River gillnet; salmon.

* * * *

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

* * * *

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

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

(C) Kenai River rod and reel only; salmon.

* * * *

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

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

* * * *

(ii) Annual harvest limits for any combination of ~~early and late run~~ Chinook salmon are four for each permit holder.

* * * *

Existing State Regulation

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

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

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

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

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

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters under consideration include all waters of the Kenai River within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge and Chugach National Forest. This includes Kenai Lake and its tributaries and all water downstream to the confluence of the upper branch of the Killey River (approximately RM 45.5), the mainstem Kenai River between RM 26.5 and RM 29 (known locally as Moose Range Meadows), and most of the upper reaches of tributaries below Skilak Lake including the Moose, Killey and Funny Rivers.

Customary and Traditional Use Determinations

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

Regulatory History

Prior to 1952, freshwater streams in the Kenai Peninsula were open to subsistence fishing. In 1952, as part of efforts to rebuild salmon runs, all streams and lakes of the Kenai Peninsula were closed to subsistence fishing under Territory of Alaska regulations. Only rod and reel fishing was allowed for “personal use” (Fall et al. 2004). In 1992, the State classified most of the Cook Inlet Area, including the Kenai and Kasilof River drainages, as a nonsubsistence area (5AAC 99.015(3)). The only State subsistence fisheries in Cook Inlet occur in areas that are not accessible from the road system, including the Tyonek, Windy Bay, Port Chatham, and Port Graham subdistricts, as well as portions of Seldovia Bay and the Yentna River drainage. The State’s subsistence priority does not apply on the Kenai Peninsula, and the Alaska Board of Fisheries may not authorize subsistence fisheries in this area. Under State regulations, personal use fisheries and educational fishery permits provide opportunities for harvesting fish with gear other than rod and reel in nonsubsistence areas.

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

There are two plans that direct the management of Chinook Salmon in the Kenai River: the Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 56.070), and

the Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359). Although these plans, which are a means to ensure adequate escapement and provide management guidelines for the department, speak to the stocks as early- and late-runs, the general regulations for the Chinook Salmon sport fishery (5 AAC 57.120) instead use dates and river sections to specify when and where fishing can occur.

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

Biological Background

Chinook Salmon runs in the Kenai River drainage are categorized into early and late runs. Chinook Salmon entering the Kenai River prior to July are considered early-run fish and primarily spawn in tributaries, while Chinook Salmon entering the Kenai River during July and August are considered late-run fish and almost exclusively spawn in the main-stem Kenai River (Begich et al. 2013). Each run is managed independently due to differences in run size, run timing, and spatial distribution of spawning fish.

While Kenai River Chinook Salmon are managed as early and late runs, the two runs are perhaps more appropriately delineated as mainstem and tributary spawning groups. The early returning fish are predominantly tributary bound, and are genetically distinct from the later returning mostly mainstem spawners (Adams et al. 1994, Barclay and Habicht 2015, Reimer and Fleischman 2017). Recent analyses, which used a more comprehensive sample collection from throughout the drainage, found additional genetic structure within Kenai River Chinook Salmon beyond mainstem and tributary (Rogers Olive et al. 2013). The study confirmed the broad scale genetic structure between the temporal runs (early and late), but also found three mid-scale structure groups (upper tributaries, lower tributaries, and mainstem) and six fine-scale structure groups. The fine-scale groups were 1) Upper mainstem/Juneau Creek, 2) Lower mainstem, 3) Quartz/Dave's/Crescent creeks, 4) Grant Creek/Russian River, 5) Benjamin Creek/Killey River, and 6) Funny River/Slikok Creek). Although temporal designations are likely the most appropriate for management purposes, it is important to note that the two broad scale genetic groups overlap in run timing to some extent. As such, some early returning mainstem spawners (late-run fish) are in the river below Skilak Lake during the early-run time period (before July 1), and some late returning tributary spawners (early-run fish) are in the river below Skilak Lake during the late-run time period (after June 30).

Chinook Salmon abundance in the Kenai River and throughout Alaska has been mostly decreasing since around 2007 (ADF&G Chinook Salmon Research Team 2013, Lipka et al. 2020). A portion of these stocks are also exhibiting declining trends in size and age, including Kenai River Chinook Salmon that spawn on the Kenai National Wildlife Refuge, either in tributary streams (Boersma and

Gates 2016) or the main-stem Kenai River (Lewis et al. 2015). Several potential, yet unproven, causal factors for this downward trend in abundance include size-selective harvest, competitive interactions, and changing environmental conditions (Lewis et al. 2015).

Cultural Knowledge and Traditional Practices

The Kenai River watershed is within the traditional territory of the *Dena'ina* Athabaskans, which dates to around 1000 A.D. The area extends from Kachemak Bay on the south end of the Kenai Peninsula, west across Cook Inlet to Lake Clark and the Stony River and northeast to the Susitna Basin. Borders are shared with the traditional territory of the *Sugpiaq* (Alutiiq) which includes the southern portion of the Kenai Peninsula, bridging the *Sugpiaq* territories of Prince William Sound with Kodiak Island and the Alaska Peninsula (de Laguna 1934, Krauss 1982, Stanek 1980).

Non-Native settlement of the Kenai Peninsula began in the 18th century with the Russians and the fur trade, and later mining efforts in Kachemak Bay. At the end of the 19th century, commercial fishing brought about new settlements, such as the Herring saltery at Seldovia in 1896. The next major non-Native settlement period began during the Gold Rush era at the end of the 19th century. Hope and Cooper Landing settlements were established during this period. Homesteading in the Homer region occurred from 1915 through 1940. With the construction of roads and local oil development in the 1950s, the population of the Kenai Peninsula increased substantially through immigration of people born outside Alaska.

Harvest History

Harvest of Pacific salmon returning to the Kenai River drainage occur in Federal subsistence fisheries, as well as State commercial, sport, personal use, and educational fisheries. Federal subsistence regulations have provided for the harvest of fish in the Kenai River drainage for the rural residents of Cooper Landing, Hope, and Ninilchik since 2007. Management of the Federal subsistence fishery occurs through general and Cook Inlet Area specific subsistence regulations, as well as in-season management actions. A Federal subsistence fishing permit is required for the harvest of salmon, trout, and char, and all harvest must be reported to the Federal in-season manager. While the Federal subsistence regulations allow for the harvest of Chinook Salmon from both runs, the actual harvest over the years has been very low (**Table 1**). There were closures in place for the retention of Chinook Salmon for the years 2013, 2014, and 2015, which may have impacted this to some degree.

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

Dip Net Harvests											
Year	Russian River Falls			Kenai River (RM 45.5-48)			Moose Range Meadows			Total	
	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook		
2007	527	n/a	n/a	0	0	0	12	0	0	539	
2008	1,281	n/a	n/a	0	0	0	0	0	0	1,281	
2009	809	n/a	n/a	30	0	0	0	0	0	839	
2010	804	n/a	n/a	0	0	0	0	0	0	804	
2011	953	n/a	n/a	0	0	0	0	0	0	953	
2012	1,285	n/a	n/a	0	0	0	0	0	0	1,285	
2013	1,267	n/a	n/a	0	0	0	0	0	0	1,267	
2014	1,672	n/a	n/a	0	0	0	0	0	0	1,672	
2015	1,604	n/a	n/a	0	0	0	0	0	0	1,604	
2016	1,641	n/a	n/a	0	0	0	0	0	0	1,641	
2017	1,773	n/a	n/a	25	0	0	0	0	0	1,798	
2018	1,951	n/a	n/a	0	0	0	0	0	0	1,951	
2019	1,848	n/a	n/a	0	0	0	0	0	0	1,848	
TOTAL	17,415	n/a	n/a	55	0	0	12	0	0	17,482	
Average	1340	n/a	n/a	4	0	0	0.923077	0	0	1,345	
Rod and Reel Harvests											
Year	Upper Kenai/Russian River			Kenai River (RM 45.5-50)			Moose Range Meadows			Total	
	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook		
2007	169	5	n/a	0	0	0	0	0	0	174	
2008	125	7	n/a	0	0	0	202	5	0	339	
2009	165	9	n/a	0	0	0	93	0	0	267	
2010	57	0	n/a	0	0	0	42	0	0	99	
2011	46	0	n/a	0	0	0	90	0	0	136	
2012	43	0	n/a	0	0	0	86	0	0	129	
2013	68	4	n/a	0	0	0	73	0	0	145	
2014	100	2	n/a	0	0	0	124	0	0	226	
2015	89	0	n/a	0	0	0	75	0	0	164	
2016	9	0	n/a	0	0	1	6	0	0	16	
2017	88	0	n/a	0	0	1	42	0	0	131	
2018	103	3	n/a	0	0	0	33	0	0	139	
2019	127	5	n/a	0	0	0	55	0	0	187	
TOTAL	1189	35	n/a	0	0	2	921	5	0	2,152	
Average	91	3	n/a	0	0	0.2	71	0.4	0	166	
Community Gillnet Harvest											
Year							Moose Range Meadows				Total
	Sockeye	Coho	Chinook	Pink	Sockeye	Coho	Chinook	Pink			
2016	-	-	-	-	-	723	12	1	6	742	
2017	-	-	-	-	-	2,169	12	1	11	2,193	
2018	-	-	-	-	-	1,488	32	-	6	1,526	
2019	-	-	-	-	-	2,832	6	-	1	2,839	
TOTAL	-	-	-	-	-	7,212	62	2	24	7,300	
Average	-	-	-	-	-	1,803	16	1	6	1,825	

Effects of the Proposal

This proposal is administrative in nature. It would remove references to early- and late-run from the portions of the Cook Inlet Area Federal subsistence fishing regulations for the Kenai River. Many of the regulations currently in place use both these terms, as well as date ranges. In the locations where the early- or late-run terms are used without date ranges, those dates would be added for clarity. If supported by the Board, this proposal would not shorten or lengthen any seasons and would not increase or decrease opportunity for Federally qualified subsistence users. These changes would reflect a more accurate portrayal of the overlapping nature of these two runs in this system and may make the complex regulations in this area easier for users to understand.

OSM CONCLUSION

Support FP21-09.

Justification

This proposed change does not alter existing harvest dates or opportunities for Federally qualified subsistence users. Using dates alone to indicate when Chinook Salmon can be harvested, rather than dates and early- or late-run designations, would provide a more concise description of when Chinook Salmon could be harvested from the Kenai River. This administrative change would continue the recent efforts to make the regulations for the Cook Inlet Area more user friendly.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Subsistence Regional Advisory Council

Support FP21-09. The Council supported this proposal based on the information provided by OSM because it was ‘administrative action’ and it did not shorten or lengthen any season and did not change harvest. This proposal would simply clarify regulations for the user.

INTERAGENCY STAFF COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-09: This proposal revises the Federal subsistence fishing regulations for Kenai River Chinook Salmon in the Cook Inlet Area (§___.27(e)(10)) to replace the designations early-run and late-run with specific dates.

Introduction: *5 AAC 57.160 Kenai River and Kasilof River Early-run King Salmon Management Plan* provides direction for managing Kenai River king salmon that enter the river and pass the sonar at RM 14 in May and June and as they move upriver through July 31.

Impact on Subsistence Users: None.

Impact on Other Users: None.

Opportunity Provided by State: The Kenai River is in a state nonsubsistence area. Kenai River is open to sport fishing for king salmon January 1- July 31. Management scenarios described in *5 AAC 57.160 Kenai River and Kasilof River Early-run King Salmon Management Plan* provide management options dependent on projections to achieve the early-run king salmon escapement goal. ADF&G studies indicate early-run king salmon primarily spawn in tributaries but also contain some mainstem spawning fish that are in those waters utilized by federal subsistence users in May, June, and early July. By July 15, most early-run king salmon are in spawning tributaries or other closed waters and unavailable for harvest.

The Kenai River king salmon early-run is relatively small compared to the late-run. Regulations provide a small amount of harvest opportunity for early-run king salmon by commercial user groups. In-river regulations are conservative and only allow harvest if the escapement goal is projected to be achieved or exceeded which has occurred three times since 2013.

Conservation Issues: None.

Enforcement Issues: None.

Recommendation: The department is **Neutral** on this proposal. The proposed dates of July 1- July 15 to define early-run and July 16- August 31 for late run fairly accurately describe when king salmon are available in waters open to federally qualified subsistence users. However, a September rod and reel fishery for king salmon would target spawning fish.

The department also proposes that the slot limit that applies to harvest of king salmon July 1-15 be modified to a maximum size limit. The slot limit was originally adopted into federal regulation to mirror the state's regulation. Since its adoption into federal regulation, the state regulation has become more conservative to protect the early-run king salmon stock. The slot limit was repealed by the Board of Fisheries in 2017. The slot limit was replaced by a maximum size limit of 36 inches which was further reduced to 34 inches in 2020. ADF&G recommends that only early-run king salmon that are less than 34 inches be allowed to be retained in the early-run if the preseason forecast projects the inriver run to be within or above the optimum escapement goal range of 3,900–6,600 early-run king salmon, or if the inseason run projection is within that range. If the inseason inriver run projection exceeds 6,600 early-run king salmon that are 75cm from mid-eye to tail fork length or longer, ADF&G has the authority to liberalize the sport fishery by allowing the use of bait, and/or modifying the maximum size limit allowed for retention—but only in the waters downstream of Slikok Creek.

FP21-10 Executive Summary	
General Description	<p>Proposal 21-10 requests the Federal Subsistence Board (Board) implement a salmon subsistence fishery in the lower Copper River adjacent to the Copper River Highway with a harvest limit of 15 salmon other than Pink Salmon for the first two members of a household and 10 salmon for additional household members, with not more than 5 Chinook Salmon per household, using dip net, rod and reel, spear, or gaff only. <i>Submitted by Jesse Carter and Robert Jewell of Cordova, Alaska.</i></p>
Proposed Regulation	<p>§ __.27(e)(11) Prince William Sound Area. <i>The Prince William Sound Area includes all waters and drainages of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.</i></p> <p>() The Lower Copper River Area includes that portion of the Copper River, from a boundary one-half mile upstream of the Copper River Highway to a boundary extending one-half mile downstream of the Copper River Highway, from the West bank of the river near highway mile 27 to the East bank of the river near highway mile 38.</p> <p><i>(i) You may take fish, other than rainbow/steelhead trout, in the Prince William Sound Area only under authority of a subsistence fishing permit, except that a permit is not required to take eulachon. You may not take rainbow/steelhead trout, except as otherwise provided for in paragraph (e)(11) of this section.</i></p> <p style="padding-left: 40px;"><i>(A) In the Prince William Sound Area within Chugach National Forest and in the Copper River drainage downstream of Haley Creek, you may accumulate Federal subsistence fishing harvest limits with harvest limits under State of Alaska sport fishing regulations provided that accumulation of fishing harvest limits does not occur during the same day.</i></p> <p>****</p> <p><i>(ii) You may take fish by gear listed in paragraph (b)(1) of this section unless restricted in this section or under the terms of a subsistence fishing permit.</i></p> <p><i>(iii) If you catch rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes, unless restricted in this section.</i></p>

FP21-10 Executive Summary	
	<p><i>(iv) In the Copper River drainage, you may take salmon only in the waters of the Upper Copper River District, in the vicinity of the Native Village of Batzulnetas, and in the Lower Copper River Area.</i></p>
	<p><i>(v) In the Upper Copper River District, you may take salmon only by fish wheels, rod and reel, or dip nets. In the Lower Copper River Area, you may take salmon only by dip nets, rod and reel, spear, and gaff, and all salmon retained must be reported to Area managers within 48 hours of harvest.</i></p> <p>****</p> <p><i>(xvii) In the Chugach National Forest portion of the Prince William Sound Area, and the Lower Copper River Area, you must possess a Federal subsistence fishing permit to take salmon, trout, whitefish, grayling, Dolly Varden, or char. Permits are available from the Cordova Ranger District.</i></p> <p style="padding-left: 40px;"><i>(A) Salmon harvest is not allowed in Eyak Lake and its tributaries, the remainder of the Copper River and its tributaries outside of the Lower Copper River Harvest Area, and Eyak River upstream from the Copper River Highway bridge.</i></p> <p style="padding-left: 40px;"><i>(B) You must record on your subsistence permit the number of subsistence fish taken. You must record all harvested fish prior to leaving the fishing site, and return the permit by the due date marked on the permit.</i></p> <p style="padding-left: 40px;"><i>(C) You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon before leaving the fishing site.</i></p> <p style="padding-left: 40px;"><i>(D) Outside of the Copper River mainstem, you may take salmon by rod and reel, dip net, spear, and gaff year-round.</i></p> <p style="padding-left: 40px;"><i>(E) For a household with 1 person, 15 salmon (other than pink) may be taken, and 5 cutthroat trout, with only 2 over 20 inches, may be taken; no more than 5 Chinook salmon per household; for pink salmon, see the conditions of the permit.</i></p>

FP21-10 Executive Summary	
	<p><i>(F) For a household with 2 persons, 30 salmon (other than pink) may be taken, plus an additional 10 salmon for each additional person in a household over 2 persons, and 5 cutthroat trout, with only 2 over 20 inches per each household member with a maximum household limit of 30 cutthroat trout may be taken; no more than 5 Chinook salmon per household; for pink salmon, see the conditions of the permit.</i></p>
	<p><i>(G) You may take Dolly Varden, Arctic char, whitefish, and grayling with rod and reel and spear year round and with a gillnet from January 1-April 1. The maximum incidental gillnet harvest of trout is 10.</i></p> <p><i>(H) You may take cutthroat trout with rod and reel and spear from June 15 to April 14th and with a gillnet from January 1 to April 1.</i></p> <p><i>(I) You may not retain rainbow/steelhead trout for subsistence unless taken incidentally in a subsistence gillnet fishery. Rainbow/steelhead trout must be immediately released from a dip net without harm.</i></p>
OSM Conclusion	Support Proposal FP21-10 with modification to include a requirement to report take of salmon to Area managers within 48 hours of harvest.
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	Support with OSM modification
Eastern Interior Alaska Subsistence Regional Advisory Council Comment	Oppose

FP21-10 Executive Summary	
Interagency Staff Committee Comments	<p>The Interagency Staff Committee (ISC) supports the proposal to provide a new Federal salmon subsistence fishing opportunity in the lower Copper River adjacent to the Copper River Highway for Federally qualified subsistence users, especially those residing in Cordova. We recognize that access to Sockeye Salmon in the State subsistence fishery near Cordova can be difficult for those lacking a boat and the knowledge to safely navigate to the fishery. We also recognize, however, that there are many competing fisheries and stakeholders throughout the Copper River drainage that are dependent on the health and viability of salmon stocks. For these reasons we believe that it is prudent to be cautious in creating a new Federal fishery, even though the expected harvest from this fishery is anticipated to be low.</p> <p>To mitigate the potential risks associated with a new fishery in the Copper River, and to help alleviate the concerns expressed by many rural stakeholders and fishery managers, the ISC supports the OSM modification to include a requirement to report take of salmon to the delegated federal manager for the Copper River drainage within 48 hours of harvest. The ISC furthermore suggests that the Board consider a modification to open the proposed new season on June 1, rather than on May 15, to allow managers to review early run strength information provided through the initial commercial fishing periods and the Miles Lake sonar. Future proposals to adjust the season start date may be warranted once federal managers are able to ascertain the effects of a new fishery within the drainage, including the level of harvest and participation in this fishery. The NPS has been issued a Delegation of Authority Letter (DOL) to manage the Federal public waters within the Copper River Drainage in the Prince William Sound Area. If this proposal is adopted, the NPS could issue emergency special actions in response to in-season management concerns in the new fishery under the existing delegation of authority.</p>
ADF&G Comments	Oppose
Written Public Comments	11 Oppose, 0 Support

STAFF ANALYSIS
FP21-10

ISSUES

Proposal FP21-10, submitted by Jesse Carter and Robert Jewell of Cordova, Alaska, requests the Federal Subsistence Board (Board) implement a salmon subsistence fishery in the lower Copper River adjacent to the Copper River Highway with a harvest limit of 15 salmon other than Pink Salmon, with not more than 5 Chinook Salmon per household, using dip net, rod and reel, spear, or gaff only. This harvest limit would not be additive to the currently existing Federal subsistence permit FFPW01, or the State subsistence fishing permit in the Copper River District.

DISCUSSION

Currently, Federally qualified subsistence users fishing in the Cordova area primarily fulfill their subsistence needs under a State of Alaska subsistence salmon fishing permit. Participation in the State subsistence gillnet fishery within the marine waters of the Copper River flats district requires use of a saltwater capable boat, fishing during commercial openers, and fishing during specific limited open periods, which can be a substantial barrier for many local fishers. The proponent's rationale for submitting the proposal is to improve access to Copper River salmon by providing residents a road accessible harvest area.

Existing Federal Regulation

§ __.27(e)(11) Prince William Sound Area. The Prince William Sound Area includes all waters and drainages of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

(i) You may take fish, other than rainbow/steelhead trout, in the Prince William Sound Area only under authority of a subsistence fishing permit, except that a permit is not required to take eulachon. You may not take rainbow/steelhead trout, except as otherwise provided for in paragraph (e)(11)

(A) In the Prince William Sound Area within Chugach National Forest and in the Copper River drainage downstream of Haley Creek, you may accumulate Federal subsistence fishing harvest limits with harvest limits under State of Alaska sport fishing regulations provided that accumulation of fishing harvest limits does not occur during the same day.

* * * *

(ii) You may take fish by gear listed in paragraph (b)(1) of this section unless restricted in this section or under the terms of a subsistence fishing permit.

(iii) *If you catch rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes, unless restricted in this section.*

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

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

* * * *

(ix) *You may take salmon in the Upper Copper River District from May 15 through September 30 only.*

* * * *

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

(A) *Salmon harvest is not allowed in Eyak Lake and its tributaries, Copper River and its tributaries, and Eyak River upstream from the Copper River Highway bridge.*

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

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

(D) *You may take salmon by rod and reel, dip net, spear, and gaff year round.*

(E) *For a household with 1 person, 15 salmon (other than pink) may be taken, and 5 cutthroat trout, with only 2 over 20 inches, may be taken; for pink salmon, see the conditions of the permit.*

(F) *For a household with 2 persons, 30 salmon (other than pink) may be taken, plus an additional 10 salmon for each additional person in a household over 2 persons, and 5 cutthroat trout, with only 2 over 20 inches per each household member with a maximum household limit of 30 cutthroat trout may be taken; for pink salmon, see the conditions of the permit.*

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

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

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

Proposed Federal Regulation

§ __.27(e)(11) *Prince William Sound Area. The Prince William Sound Area includes all waters and drainages of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.*

() The Lower Copper River Area includes that portion of the Copper River, from a boundary one-half mile upstream of the Copper River Highway to a boundary extending one-half mile downstream of the Copper River Highway, from the West bank of the river near highway mile 27 to the East bank of the river near highway mile 38.

(i) You may take fish, other than rainbow/steelhead trout, in the Prince William Sound Area only under authority of a subsistence fishing permit, except that a permit is not required to take eulachon. You may not take rainbow/steelhead trout, except as otherwise provided for in paragraph (e)(11) of this section.

(A) In the Prince William Sound Area within Chugach National Forest and in the Copper River drainage downstream of Haley Creek, you may accumulate Federal subsistence fishing harvest limits with harvest limits under State of Alaska sport fishing regulations provided that accumulation of fishing harvest limits does not occur during the same day.

* * * *

(ii) You may take fish by gear listed in paragraph (b)(1) of this section unless restricted in this section or under the terms of a subsistence fishing permit.

(iii) If you catch rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes, unless restricted in this section.

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

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

* * * *

(ix) You may take salmon in the Upper Copper River District **and in the Lower Copper River Area** from May 15 through September 30 only.

* * * *

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

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

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

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

(D) **Outside of the Copper River mainstem**, you may take salmon by rod and reel, dip net, spear, and gaff year-round.

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

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

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

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

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

Existing State Regulation

5 AAC 01.005. Subsistence fishing permitted

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

5 AAC 01.600. Description of the Prince William Sound Area

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

5 AAC 01.605. Description of districts and subdistricts

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

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

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

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

5 AAC 01.625. Waters closed to subsistence fishing

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

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

Extent of Federal Public Lands

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. Federal public waters under consideration in this analysis include that portion of the Copper River, from a boundary one-half mile upstream of the Copper River Highway to a boundary extending one-half mile downstream of the Copper River Highway, from the West bank of the river near highway mile 27 to the East bank of the river near highway mile 38 (Figure 1).

Customary and Traditional Use Determinations

Residents of the Prince William Sound Area have a customary and traditional use determination for Salmon in the Remainder of the Prince William Sound Area.

Regulatory History

Federal subsistence fishing regulations for the Prince William Sound (PWS) Area in the vicinity of Cordova require Federally qualified subsistence users to have a permit to harvest fish. At its April 2019 meeting, the Board approved Proposal FP19-13, which put into regulation seasons, harvest limits, and methods of harvest for the Federal fishery in the Chugach National Forest portion of the PWS Area. Previously the conditions for the fishery existed as stipulations on the Federal subsistence fishing permit (FFPW01) for the Copper River Delta/PWS Area. The lower Copper River and its tributaries are closed to Federal subsistence harvest of salmon by regulation, but these waters are open for the harvest of other fish with the permit. The Federal subsistence fishing permit within the Copper River Delta/PWS Area allows for the harvest of fish in freshwater with rod and reel year-round, except in Eyak Lake and its tributaries, which are closed to fishing for salmon. The Federal subsistence permit limits the harvest of salmon to 15 fish for a household of one, 30 fish for a household of two, and 10 salmon for each additional person in that household. The Federal and State subsistence permit harvest limits may not be added. There is no limit on the number of Chinook Salmon (*Oncorhynchus tshawytscha*) that may be taken within the total salmon limit on this permit because there are few, if any, Chinook Salmon returning to fresh waters open to subsistence harvest in this area.

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

under FP06-19: 1) a winter gillnet fishery for whitefish in the Cordova area; and 2) subsistence harvest of trout in the Copper River Delta east of the Copper River. The Board rejected Proposals FP06-18 and FP06-19 because they restricted subsistence uses.

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

The Copper River Chinook Salmon escapement was estimated to be below average from 2009 through 2016 and failed to reach the sustainable escapement goal (SEG) of 24,000 fish mandated in the State's management plan in 2010, 2014, and 2016 (ADF&G 2017, 2020d). The 2016 escapement estimate of 16,764 fish was the lowest ever documented (ADF&G 2017). In a cooperative effort, pre-season management actions were then taken in 2017 directed at Chinook Salmon conservation: the State restricted its upriver subsistence fishery and closed both the upriver sport and the Chitina personal use fisheries (ADF&G 2017) and the Federal in-season manager issued Chinook Salmon emergency special actions in the Upper Copper River District delaying the season start date for the Federal subsistence fisheries (Special Action SA 11-KS-01-17) and reducing the Federal subsistence Chinook Salmon harvest limit for the gear types of dip net and rod and reel (Special Action SA 11-KS-02-17), the gear types that would allow selective release of live fish. These early-season 2017 restrictions were rescinded after abundance assessments indicated adequate escapement to meet the SEG.

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

The 2018 fisheries proposal cycle also included Proposal FP19-14, submitted by the Native Village of Eyak, which proposed to extend the current Federal subsistence salmon fishery opportunity afforded to residents of PWS Area to specific waters of the lower Copper River beginning one-half mile downstream of the road crossing at Copper River Highway Mile 27 and extending upstream to the Million Dollar Bridge, by dip net and rod and reel. The Native Village of Eyak withdrew Proposal FP19-14 during the first day of the 2018 Council meeting.

In 2018, the State began to permit for gillnet subsistence opportunities independent of commercial fishing openers for the harvest of salmon in marine waters of the Copper River District. Prior to 2018, the Alaska Board of Fisheries (BOF) also exercised the ability to restrict the commercial fishing fleet

from inside waters of the Copper River District to allow additional salmon to migrate upstream to meet escapement and other in-river goals.

During the 2018 season, the delegated Federal in-season manager initially issued a Special Action to delay the Federal subsistence season in the Chitina Subdistrict. This was followed by the receipt of several Special Action Requests to close non-Federal fisheries in the Upper Copper River District. These actions were not taken, however, after consulting with the State; the State ordered a closure of their Glennallen Subdistrict subsistence fishery for the first time ever.

In the Upper Copper River District, the Federal subsistence season runs from May 15 through September 30. The Upper Copper River District is separated into two parts: the Chitina Subdistrict and the Glennallen Subdistrict. The allowable gear includes rod and reel, dip nets, and fish wheels. The annual harvest limit for a household of one is 30 salmon (including no more than 5 Chinook Salmon by dip net and 5 Chinook Salmon by rod and reel). Upon request, permits will be issued for up to 200 salmon total (the Chinook Salmon limit does not change). The annual harvest limit for a household of two or more persons is 60 salmon (including no more than 5 Chinook Salmon by dip net and 5 Chinook Salmon by rod and reel). Upon request, permits will be issued for up to 500 salmon total; the Chinook Salmon limit does not change (FSMP 2017). The State manages the Upper Copper River District for two different fisheries, where the Chitina Subdistrict provides for a State personal use fishery and the Glennallen Subdistrict provides for a State subsistence fishery. State permittees must choose between fisheries (subsistence or personal use) and methods (dip net or fish wheel, if subsistence fishing) when they get their permits. The State Chitina personal use fishery is managed separately from the Glennallen subsistence fishery, with State subsistence receiving priority over personal use (ADF&G 2017). In the Chitina Subdistrict personal use fishery, dip nets are the only allowable gear, a permit fee is charged, and harvest limits differ from those for the subsistence fisheries. Additionally, there is a small Federal and State subsistence fishery in the Batzulnetas Area (**Table 1**), which requires a permit from either the National Park Service (Federal) or from the State. Only residents of Dot Lake and Mentasta Lake are eligible for the Federal subsistence fishery in the Batzulnetas Area.

There is also a State subsistence fishing permit that allows for the harvest of salmon in the marine waters of the Copper River District (**Table 1**). The Copper River District includes the Copper River district and other marine waters near Cordova (Fall et al. 2018). The legal gear allowed in the Copper River District is drift gillnets, and the harvest limits are 15 salmon for a household of one, 30 salmon for a household of two, and 10 salmon for each additional person in that household. There is also a limit of five Chinook Salmon per household. The season for this State subsistence fishery is May 15 – October 31, with fishing periods: (1) from May 15 until two days before the commercial opening of that salmon district, seven days per week; (2) during the commercial salmon season, only during open commercial salmon fishing periods in that district and Saturdays from 6:00 a.m. to 10:00 p.m.; (3) from two days following the closure of the commercial salmon fishing season in that district through October 31, seven days a week. (4) notwithstanding (g)(2) of this section, subsistence salmon fishing is not allowed 24 hours before open commercial salmon fishing periods in that district (5 AAC 01.610. Fishing seasons).

Current Events

Recent, exceptionally low total run returns of Copper River Sockeye Salmon (*O. nerka*) have prompted concerns in both 2018 and 2020. This resulted in the 2018 commercial harvest in the Copper River District to be the second lowest in the last 100 years (ADFG 2018) and the 2020 commercial harvest through June 25 to be fourth lowest in the last 51 years (Hought, pers. comm.).

The 2020 Copper River Chinook Salmon run forecast was 60,000 fish, and the Sockeye Salmon run forecast was for 1,422,000 fish (ADF&G 2020). As of June 25, 2020, mid-season assessments by the Alaska Department of Fish and Game (ADF&G) of the Copper River return of both Chinook Salmon and Sockeye Salmon were well below average levels for this date of the season; the combined salmon return was estimated to be approximately 80% of the projected management objective. Final cumulative return past the Miles Lake sonar station in 2020 was 530,313, below the Cumulative Management Objective of 628,553 but above the lower SEG of 360,000. These low returns prompted the State to enact closures in both the personal use and sport salmon fishery. During this time, the State subsistence fishery in the Copper River District did not close.

In contrast, cumulative 2019 Copper River salmon returns were 1,039,354 salmon, exceeding the upper range SEG of 750,000.

A request was submitted to the Board in April 2020 to open a Federal subsistence dip netting season for salmon in the lower Copper River (Fishery Special Action Request FSA20-04), to offset COVID-related health and safety issues associated with existing means of harvesting Copper River salmon in the State Copper River District fishery. This issue generated a large amount of public interest, with 38 written comments supporting and 10 opposed to the measure. This proposal was considered by a special session of the Board and not adopted.

Public input in response to the proposed Federal subsistence salmon fishery in the Lower Copper River Area raised several issues. One concern shared by some community members was that establishment of a Federal subsistence fishery would lead to development of a State Personal Use fishery, resulting in crowding and overharvest in the lower Copper River. This concern is an unrelated event and could occur with or without the adoption of Proposal FP21-10. For reference, a State personal use fishery was not proposed after the Federal fishery for fresh waters of the Copper River Delta (FPW01) was established in 2004.

Public comments from the commercial fishing community and user groups upriver on the Copper River also expressed a concern that salmon harvested in the Lower Copper River Area would be taken prior to being counted at the Miles Lake sonar site, resulting in misinformed management decisions due to unaccounted harvest. This concern could be addressed with a modification to the proposed regulation adding a reporting requirement for all salmon taken in the Lower Copper River Area within 48 hours of harvest, allowing for accurate in-season updates to contribute to management decisions. Currently, two salmon fisheries already take place below the Miles Lake Sonar; the Copper River District commercial drift gillnet fishery and State subsistence gillnet fishery. Commercial harvest in the Copper River District is tracked through fish tickets with ADF&G and the State subsistence gillnet fishery recommends but does not require reporting until after the season.

Table 1. Overview of current salmon subsistence and personal use fisheries in waters of the Copper River (ADF&G 2017; FSMP 2017). Refer to specific regulations for information regarding each fishery. Emergency Orders, Special Actions, and other management actions affect these fisheries by limiting the season or allowable take throughout the year.

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

^a Total combined harvest; see regulation for details

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

^c See regulations for open period specifications within this season

Prior to the Southcentral Regional Advisory Council meeting on October 7-8, 2020, 157 letters of support from Cordova residents were submitted to the Southcentral Council chair. Seven of these letters were unique letters citing the lack of access to Copper River sockeye and chinook salmon by Cordova residents that do not own boats. Additionally, a form letter signed by 150 Cordova residents stated:

I am writing to express my support for FP21-10, a proposal to allow a Federal subsistence dip-net season on the lower Copper River. Currently, opportunities to harvest Copper River salmon for subsistence are limited to a State subsistence gillnet fishery on the Copper River flats which requires a boat to access the fishery, and is only open 3 periods/week, and typically requires competing with the commercial gillnet fleet on 2 of those 3 open periods. This would allow an opportunity to harvest the healthiest and most nutritious salmon available in our area, by the rural residents that depend on natural resources the most.

Biological Background and Harvest History

Salmon fisheries in the Copper River primarily harvest Chinook, Sockeye, and Coho Salmon. These salmon stocks are harvested in multiple fisheries, including commercial and State subsistence gillnet fisheries in marine waters near the mouth of the Copper River; a personal use dip net fishery in the Chitina Subdistrict of the Upper Copper River District; subsistence fisheries in the Glennallen Subdistrict of the Upper Copper River District, and sport fisheries that occur in various tributaries. State subsistence fishing for Copper River stocks is restricted to four areas (**Table 1**): 1) the Copper River District; 2) the Glennallen Subdistrict within the Upper Copper River District; and 3) the Batzulnetas Area. Of the three State subsistence areas, the Upper Copper River District has the highest use and harvest (Botz and Somerville 2017). Federal subsistence fishing is restricted to: 1) the Upper Copper River District (both the Glennallen and Chitina Subdistricts) and 2) the Batzulnetas Area.

The (BOF) has established management plans designed to provide harvest opportunities while ensuring suitable numbers of Copper River salmon reach their spawning grounds to provide for sustained populations. These management plans allocate harvest amongst different fisheries targeting these stocks. During years of weak salmon returns, the escapement goals are met by implementing in-season management actions designed to limit harvest in specific fisheries.

The State set the upper Copper River sustainable escapement goal (SEG) at 360,000–750,000 wild Sockeye Salmon, and the Copper River Delta SEG at 55,000–130,000 Sockeye Salmon (Haught et al. 2017). Since 1998, the ADF&G has successfully met or exceeded the minimum threshold of the SEG range for Sockeye Salmon in the Copper River annually (Fall et al. 2018, Somerville 2018, pers. comm.; **Table 2**). The recent 10-year average (2010–2019) Copper River Sockeye Salmon total run is 2,415,582 (Haught 2020, personal comm). The total estimated runs and fishery type (commercial, sport and subsistence harvests and escapement information) for Sockeye Salmon in the Copper River system for 2009 – 2019 are displayed in Appendix 1 (Russell et al. 2020).

In 2003, the Chinook Salmon SEG for the Copper River was lowered to 24,000 or more fish (Bue et al. 2002). A more recent review for this fishery by Haught et al. (2017) recommended an SEG range of 18,500-33,000 Chinook Salmon, which ADF&G removed from BOF consideration. Since 2002, the

lower bound of the Chinook Salmon SEG for this system was met or exceeded 11 out of 16 years (Fall et al. 2018; Somerville 2018, pers. comm.; **Table 2**). The recent 10-year average (2008 – 2017) Copper River Chinook Salmon total run is 45,000 fish (Haught and Vega 2018). The total estimated runs and end destinations (commercial, sport and subsistence harvests and escapement information) for Chinook Salmon in the Copper River system for 2009 – 2019 are displayed in **Appendix 1 and 2** (Russell et al. 2020).

Table 2. Estimated Sockeye and Chinook salmon returns and spawning escapements for the Copper River, 2007 – 2017, and the previous 5-year and 10-year averages (Fall et al. 2018; Somerville 2018, pers. comm.).

Year	Sockeye Salmon		Chinook Salmon	
	Est. Total Return ^a	Spawning Escapement ^a	Est. Total Return ^a	Spawning Escapement ^a
2007	2,961,568	612,102	87,770	34,575
2008	1,141,223	480,597	53,880	32,487
2009	1,721,695	469,089	43,007	27,787
2010	1,715,714	502,992	33,181	16,764
2011	3,097,537	607,657	53,889	27,994
2012	3,253,887	930,699	44,312	27,835
2013	3,006,009	860,829	42,880	29,012
2014	3,411,981	864,988	35,322	20,709
2015	3,205,039	925,506	56,174	26,764
2016	2,074,971	513,563	29,243	12,485
2017	1,252,701	492,297	53,825	35,386
Average 2012 – 2016	2,991,509	824,557	41,586	23,361
Average 2007 – 2016	2,559,525	679,523	47,966	25,641

^a Preliminary until all upriver harvests, including sport harvest, has been accounted for.

Coho, Chum (*O. keta*), and Pink Salmon (*O. gorbuscha*) are not expected to be significantly impacted by this proposal, though some incidental take may occur in the proposed dip net/rod and reel fishery in the Lower Copper River Area. The existing recreational Coho Salmon fishery in the proposed area is minimal. The State has a SEG of 32,000–67,000 for Copper River Delta Coho Salmon (Haught et al. 2017) and, at this time, there are no biological concerns for the fishery (Botz 2018, pers. comm.). Few Chum Salmon use the Copper River and have not historically been targeted by recreational or subsistence fishers, but some have been taken incidentally to other salmon species (Miller and Stratton 2001). The State has not established an escapement goal for Chum Salmon in the Copper River drainage. Few Pink Salmon migrate up the Copper River, and those that do enter the drainage are only found in the very lower reaches of clear water tributaries.

The estimated annual salmon harvest by State subsistence permit holders in the Copper River District (Copper River Flats) of the PWS Area averaged 2,723 total salmon for the previous 11-year period (2009 – 2019) (**Appendix 1 and 2**). For the three State subsistence fishery districts in PWSA, the Copper River District near the community of Cordova accounts for the majority of subsistence salmon harvested, with 91% of the total harvests in 2015 (Fall et al. 2018). However, subsistence harvest data for the Eastern and Southwest Districts is likely to be consistently underestimated (Ashe et al. 2005).

The estimated annual salmon harvest by State subsistence salmon dip net permit holders in the Upper Copper River District (Glennallen Subdistrict) averaged 19,656 total salmon for the previous 10-year period (2010 – 2019), of which 16,635 were Sockeye Salmon and 730 were Chinook Salmon. The estimated salmon harvest by Glennallen Subdistrict fish wheel permit holders averaged an additional 44,866 total salmon for the previous 10-year period, of which 43,179 were Sockeye Salmon and 1,436 were Chinook Salmon (**Appendix 1 and 2**). Additional salmon harvested from the Upper Copper River District over the same time period includes the Chitina Subdistrict personal use fishery, with average harvests from 2009 – 2019 of 140,340 Sockeye Salmon and 953 Chinook Salmon (Somerville 2020, pers. comm.).

The yearly Federal subsistence harvests for the Upper Copper River District (Chitina and Glennallen Subdistricts combined) averaged 21,077 Sockeye Salmon and 761 Chinook Salmon from 2010 – 2019. Coho Salmon averaged only 55 fish harvested in this District for the same 10-year average (**Table 3**).

The Federal subsistence fishing permit for the Copper River Delta/PWS area allows for the harvest of fish in fresh waters (not including the Copper River) with harvest limits for salmon as described earlier. Under this permit, over 95% of the harvest by Federally qualified subsistence users occurs in three river systems: Ibeck Creek, Eyak River, and Alaganik Slough (USFWS 2018). On average, 34 households fished under a Federal subsistence permit and harvested an annual average of 486 salmon from 2007 – 2019, approximately 80% of which were Coho Salmon (**Table 4**). Rod and reel is overwhelmingly the most common harvest method under this permit (Burcham 2018, pers. comm.), as relatively clear waters from the Alaganik and Eyak systems negatively impact dip net success. No Chinook Salmon have been reported as harvested under the CRD/PWS area Federal subsistence permit since its inception in 2005 (USFWS 2018; Burcham 2018, pers. comm.). Additionally, though permit FFPW01 is available to both Tatitlek and Chenega, no households outside of Cordova have requested or been issued this fishery permit in other qualifying villages.

Sport fishing is very popular in the PWS area, especially along the road accessible systems. The Copper River is the only major producer of Chinook Salmon in the PWS area. Although allowed, a sport fishery for salmon or trout in the proposed area has not developed, primarily because of the high turbidity of the Copper River. Additionally, Bridge No. 339 was closed in August 2011 after sustaining substantial damage from a washout event that prevented vehicle access on the Copper River Highway beyond Mile 36 and limiting fishing opportunities for a large area of the Copper River Delta. The bait restriction from April 15 through June 14 to protect spawning trout also reduces the chances of harvesting Chinook Salmon migrating through the lower Copper River. Sockeye Salmon do not readily take bait or lures and are not often pursued in the turbid Copper River with rod and reel. Outside of the

Copper River, the sport fishery for Chinook Salmon in PWSA is supported almost entirely by hatchery-produced fish that are harvested in marine waters of the Cordova terminal harvest area (Thalhauser 2014).

Table 3. Estimated harvest of Sockeye, Chinook, and Coho Salmon by Federally qualified subsistence users in the Upper Copper River District, as reported for the Glenallen and Chitina Subdistricts, 2002-2019 (Sarafin 2020,

Year	Permits Issued	Percentage of Permits Reported	Glenallen Subdistrict Federal Reported and Expanded Subsistence Fishery Harvests ¹												
			Sockeye		Chinook		Coho		Steelhead/Rainbow Trout		Other Species		All Species		
			Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Total Harvest Estimate ²
2002	201	80.6	7,944	9,856	564	700	81	100	62	77	35	43	35	43	10,777
2003	221	83.3	13,616	16,346	554	665	152	182	13	16	20	24	20	24	17,233
2004	261	78.9	17,704	22,439	636	806	152	193	12	15	12	15	12	15	23,468
2005	267	85.8	19,973	23,279	331	386	47	55	6	7	32	37	32	37	23,763
2006	254	87.4	16,711	19,120	430	492	28	32	15	17	32	37	32	37	19,698
2007	281	84.3	15,225	18,060	569	675	34	40	6	7	21	21	21	25	18,808
2008	269	81.4	11,347	13,940	705	866	148	182	17	21	44	54	44	54	15,063
2009	274	85.0	11,836	13,925	494	581	34	40	19	22	31	36	31	36	14,605
2010	269	87.7	12,849	14,651	300	342	64	73	39	44	22	22	22	25	15,136
2011	277	87.7	14,163	16,145	701	799	53	60	5	6	248	283	248	283	17,293
2012	275	92.0	14,461	15,718	371	403	78	85	40	43	104	113	104	113	16,363
2013	273	89.0	15,834	17,789	331	372	24	27	6	7	62	70	62	70	18,264
2014	315	90.5	21,614	23,889	397	439	23	25	10	11	52	57	52	57	24,422
2015	325	92.3	24,695	26,753	394	416	13	14	7	8	201	218	201	218	27,408
2016	320	82.8	15,884	19,181	369	446	9	11	5	6	332	401	332	401	20,044
2017	338	85.2	15,691	18,415	399	468	1	1	7	8	468	549	468	549	19,442
2018	335	91.3	15,287	16,736	2,432	2,662	0	0	4	4	41	45	41	45	19,448
2019	343	89.5	15,873	17,734	849	949	0	0	3	3	53	59	53	59	18,745
5-Yr. Avg.	332	88	17,486	19,764	887	988	5	5	5	6	219	254	219	254	21,017
2015-19															
10 Yr. Avg.	307	89	16,635	18,701	653	730	27	30	13	14	158	182	158	182	19,656
2010-19															

¹ This table reflects entries to the online database from 2011 through 6/01/2020. Data prior to 2011 relies on NPS records. Data for all years subject to changes resulting from entry error corrections.
² Expanded Harvest estimate derived from a basic, direct ratio expansion based on the percentage of permits that reported

Chitina Subdistrict Federal Reported and Expanded Subsistence Fishery Harvests¹

Year	Permits Issued	Percentage of Permits Reported	Sookeye		Chinook		Coho		Steelhead/Rainbow Trout		Other Species		Total Harvest Estimate ²
			Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	
2002	122	73.0	575	788	33	45	0	0	0	0	N.A.	N.A.	833
2003	100	82.0	717	874	18	22	70	85	0	0	N.A.	N.A.	982
2004	109	76.1	1,215	1,597	7	9	18	24	0	0	N.A.	N.A.	1,629
2005	76	84.2	1,265	1,502	22	26	0	0	0	0	0	0	1,529
2006	75	85.3	1,379	1,617	13	15	20	23	0	0	0	0	1,655
2007	98	88.8	929	1,046	26	29	40	45	0	0	0	0	1,120
2008	82	85.4	789	924	22	26	74	87	0	0	0	0	1,036
2009	68	91.2	817	896	8	9	11	12	0	0	0	0	917
2010	92	85.9	2,061	2,399	17	20	33	38	1	1	0	0	2,459
2011	85	85.9	1,766	2,056	13	15	8	9	0	0	0	0	2,081
2012	89	93.3	1,332	1,427	6	6	8	9	1	1	1	0	1,443
2013	99	90.9	1,999	2,199	17	19	8	9	1	1	10	11	2,239
2014	113	94.7	1,549	1,636	14	15	68	72	3	3	0	0	1,726
2015	111	92.8	2,231	2,404	13	14	14	15	7	8	0	0	2,441
2016	128	80.5	1,549	1,925	16	20	33	41	0	0	4	5	1,991
2017	132	79.5	1,454	1,828	12	15	7	9	0	0	0	0	1,852
2018	132	91.7	3,144	3,430	92	100	28	31	0	0	0	0	3,561
2019	181	89.5	3,984	4,451	74	83	20	22	0	0	0	0	4,556
5-yr. Avg. 2015-19	137	87	2,472	2,808	41	46	20	24	1	2	1	1	2,880
10-yr. Avg. 2010-19	116	88	2,107	2,376	27	31	23	25	1	1	1	2	2,435

¹ This table reflects entries to the online database from 2011 through 6/01/2020. Data prior to 2011 relies on NPS records. Data for all years subject to changes resulting from entry error corrections.

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

Table 4. Federal subsistence permit activity and harvest of salmon (not including waters of the Copper River), 2007 – 2019, within the Chugach National Forest and the previous 10-year average (Pearson 2020, pers. comm.)

Year	Permits				Reported Salmon Harvest			
	Issued	Returned	Fished	Not Fished ^a	Chinook	Sockeye	Coho	Total
2007	32	32	16	16	0	33	62	95
2008	44	42	24	18	0	32	117	149
2009	38	38	22	16	0	46	185	231
2010	48	44	21	23	0	0	231	231
2011	66	52	29	23	0	35	485	520
2012	63	46	31	15	0	83	428	511
2013	65	60	23	37	0	120	329	449
2014	88	72	41	31	0	76	610	686
2015	94	62	47	15	0	150	865	1015
2016	110	92	51	41	0	219	526	745
2017	98	88	48	40	0	127	503	630
2018	97	92	40	57	0	96	255	351
2019	120	111	48	72	6	116	586	702
Average	74	64	34	31	0	87	399	486

^a As reported on returned permits.

There are populations of unknown size of Rainbow Trout (*O. mykiss*) that migrate up the Copper River. Current Federal subsistence management regulations require the immediate release of Rainbow Trout unharmed unless taken incidentally in a fish wheel.

Cultural Knowledge & Traditional Practices

The mouth of the Copper River is located within the traditional territory of the Eyak people. At the time of contact with Europeans, multiple Eyak communities were present in the vicinity of the river delta, including both the community of Eyak and that of Alaganik (Sherman 2012; Fall and Zimpelman 2016). This area was also in proximity to the traditional territories of the Ahtna, Chugach, and Tlingit cultures.

Orca Inlet, where the present-day town of Cordova is located, was originally named Puerto Cordoba by the Spanish explorer Don Salvador Fidalgo who landed there in 1790 (ADCCED 2018). Two canneries opened in the area by the late 1880s and many more followed in subsequent decades (Sherman 2012; Fall and Zimpelman 2016). Seasonal commercial fishing, clamming, and cannery work quickly became the dominant economic enterprises and remain so today (Fall and Zimpelman 2016). The population of Cordova exploded in 1906, when Michael Henry founded the community as the railroad terminus for the Kennecott Mine (Sherman 2012; Fall and Zimpelman 2016). Henry named the community Cordova, and it was formally established in 1909 (ADCCED 2018). The mine closed in 1938, but many former workers

remained in the town and participated in the commercial fisheries. Today, there is also a large local, State, and Federal government sector, including U.S. Coast Guard units (Fall and Zimpelman 2016).

The population of Cordova has been relatively stable over the last decade, with a population of 2,239 in 2010 and 2,316 residents in 2020 (ADCCED 2018, COV 2020). Cordova continues to have a significant Alaska Native population with an active village council (ADCCED 2018). Commercial fishing and subsistence activities are considered central to the culture of the community (ADCCED 2018). In 2014, approximately 77% of residents participated in the harvest of wild resources, averaging 116 lbs. per capita (Fall and Zimpelman 2016).

In 2014, the ADF&G conducted comprehensive subsistence surveys of all resources harvested by the residents of Cordova over the course of a year. Salmon made up the largest portion of the 2014 harvest (35% of the total harvest representing 43.8 lbs. per capita) and was used by approximately 92% of households. Sockeye Salmon were used and harvested by Cordova households more than any other salmon (73%; 19 lbs. per capita), followed by Coho Salmon (71%; 16 lbs. per capita), and Chinook Salmon (63%; 8 lbs. per capita). Still, the 2014 estimated per capita salmon harvest for the community was the lowest estimated for Cordova at that time since 1985 (Fall and Zimpelman 2016).

The most commonly used gear type for harvesting salmon, other than removal from commercial catch (i.e. homepack), was sport use rod and reel, which composed 38% of the total salmon harvest by weight (Fall and Zimpelman 2016). Subsistence gear of all types was used for 19% of the overall salmon harvest and 27% of the Sockeye Salmon harvest (Fall and Zimpelman 2016). Access to Sockeye Salmon in freshwaters near Cordova is limited, and in 2014, only 10% of the harvest of this species was by rod and reel (Fall and Zimpelman 2016). Residents that do not have boat access to the state subsistence driftnet fishery harvest Coho Salmon in larger numbers (Fall and Zimpelman 2016). The Federal subsistence and State rod and reel fisheries are especially important to Cordova residents because they are accessible by road and include the heavily used Ibeck Creek, Alaganik Slough, and Eyak River (Fall and Zimpelman 2016).

Effects of the Proposal

If adopted, this proposal would create access under a new Federal subsistence permit for the Lower Copper River Area (FFPW05) to include waters of the Copper River from a boundary one-half mile upstream of the Copper River Highway to a boundary extending one-half mile downstream of the Copper River Highway, and from the West bank of the river near highway mile 27 to the East bank of the river near highway mile 38. This proposal specifies dip net, rod and reel, spear, and gaff as the only legal gear types for this fishery. It would provide additional subsistence opportunities for Federally qualified subsistence users living in the PWS Area, especially those in the community of Cordova. This new harvest opportunity may generate some level of new interest that has potential of expanding the number of users and associated harvest, but it would shift some of the harvest efforts from the State subsistence fishery in the Copper River District and Federal subsistence fishery in the fresh waters of the Copper River Delta to the Copper River and its tributaries. The total salmon harvest limit permitted per household would not change.

Federally qualified subsistence users in the Cordova area currently concentrate their harvest efforts for salmon through the Federal subsistence fishery in Ibeck Creek, Eyak River, and Alaganik Slough, or through the State subsistence fishery in the marine waters of the Copper River Flats. Most of the Federal subsistence harvest efforts are focused on the fall Coho Salmon return across the Copper River Delta. State subsistence regulations only allow for the harvest of salmon in the marine waters of the Copper River District, which requires access to a suitable boat and the approved gear type (i.e., relatively expensive gillnets). In contrast, most of the State subsistence harvest efforts are focused on the early summer Sockeye Salmon returns to the Copper River District. This proposal would provide access and methods for rural residents without boats capable of accessing marine waters to participate in the harvest of Chinook Salmon and would also improve access to Sockeye Salmon.

The proposed regulatory change would be expected to have minimal biological effects on fish stocks. The projected harvest would be the smallest of any user group in the Copper River system, up to 2,000 Sockeye Salmon and 300 Chinook Salmon annually (**Figure 2 and 3**). This estimate is based on the annual State subsistence gillnet harvest in the Copper River District; taking into account the smaller pool of qualified users, and reduced efficiency of allowable gear type (dipnet compared to drift gillnet). Sockeye Salmon runs to the upper Copper River have consistently exceeded the minimum bound of the SEG range (360,000) for wild stocks in most years (Appendix 1). This proposal would open waters to Federal subsistence fishing that contain runs of Chinook Salmon. The regulations for the Prince William Sound Area do not currently restrict the number of Chinook Salmon since few systems, other than the Copper River, support runs of Chinook Salmon. However, the proposal includes language limiting Chinook Salmon harvest to no more than 5 per household. This is consistent with both upriver limits on dip net harvests and the state subsistence fishery on the Copper River District. Harvest monitoring specific to the Lower Copper River Area would be necessary by Copper River drainage fisheries managers. It is not anticipated that the harvest from the proposed Lower Copper River Area would affect the subsistence, personal use, or sport harvests in the Upper Copper River District.

In the event of poor salmon returns in the Copper River drainage or to the Copper River Delta, the addition of the proposed area salmon fishery would provide additional harvest opportunities for Federally qualified subsistence users.

The Superintendent of Wrangell-St. Elias National Park and Preserve is the Board delegated manager for subsistence fisheries within Federal waters of the Copper River drainage (**Appendix 3**), while the Board delegated authority in all other non-Copper River waters within the PWS Area to the Cordova District Ranger of Chugach National Forest (Forest Service). In order for the Park Service to manage a Lower Copper River Area subsistence fishery, if approved, the fishery will need to be administered under a second, non-stackable Federal permit, separate from Federal Permit FFPW01, which is issued by the Forest Service. Both Federal permits would be available from the Forest Service office in Cordova.

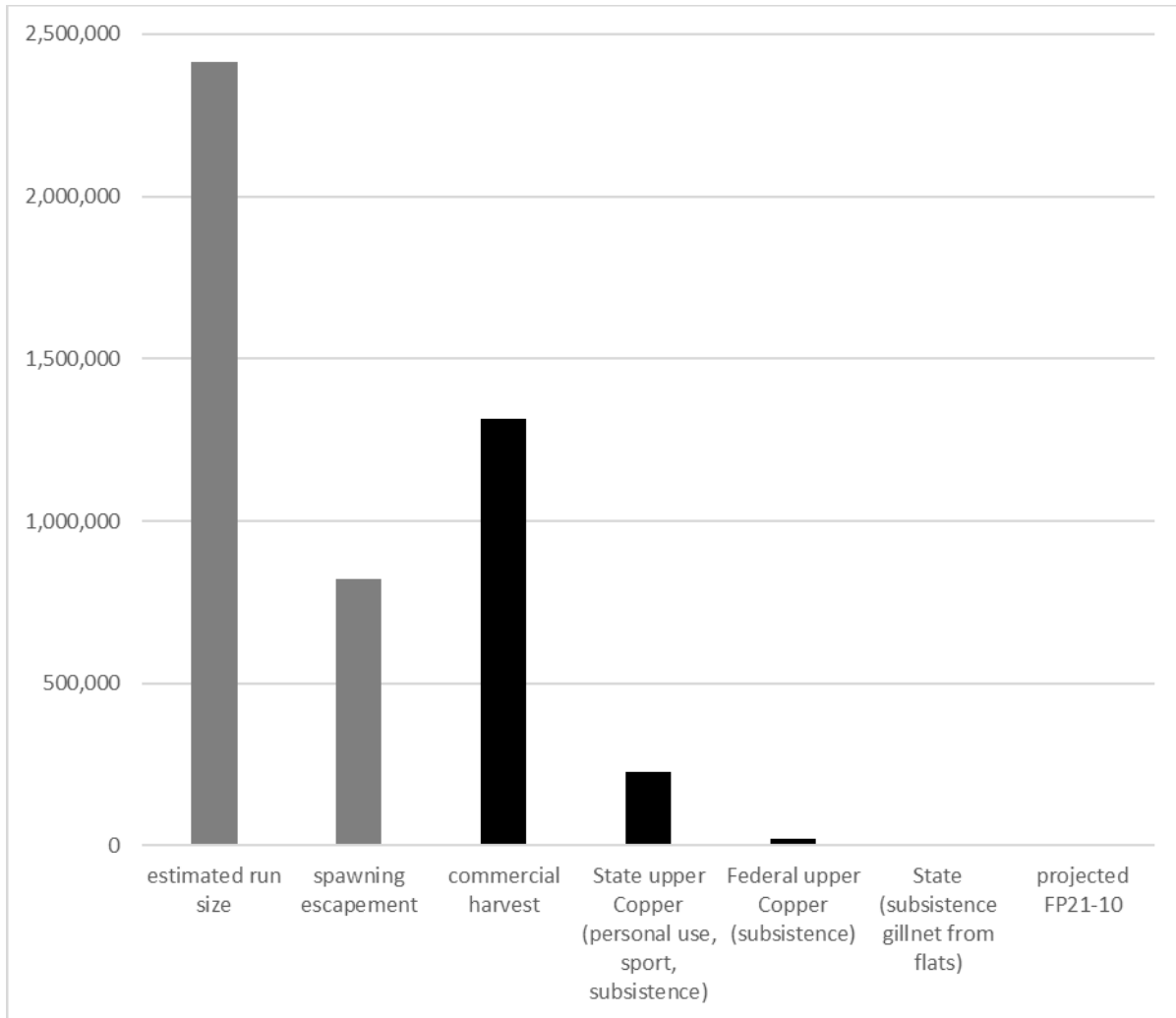


Figure 2. Comparison of ten-year average run size, escapement, and harvest of Sockeye Salmon in the Copper River by user group. The proposed FP21-10 Lower Copper River Area is projected to harvest up to 2,000 Sockeye Salmon annually.

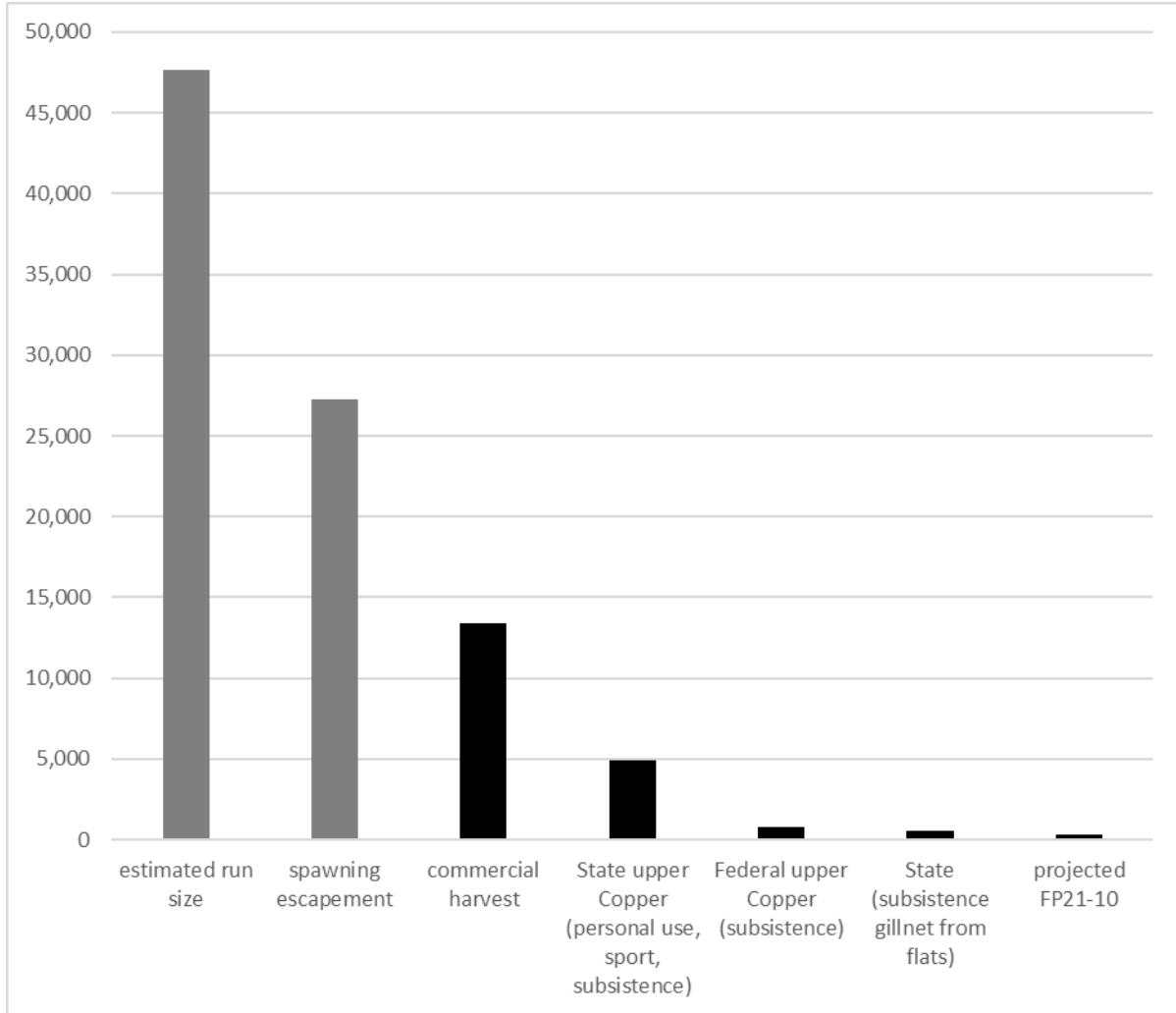


Figure 3. Comparison of ten-year average run size, escapement, and harvest of Chinook Salmon in the Copper River by user group. The proposed FP21-10 Lower Copper River Area is projected to harvest up to 300 Chinook Salmon annually.

OSM CONCLUSION

Support Proposal FP21-10 **with modifications** to include a requirement to report take of salmon to Area managers within 48 hours of harvest.

The modified regulation should read:

§ __.27(e)(11) Prince William Sound Area. *The Prince William Sound Area includes all waters and drainages of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.*

() The Lower Copper River Area includes that portion of the Copper River, from a boundary one-half mile upstream of the Copper River Highway to a boundary extending one-half mile downstream of the Copper River Highway, from the West bank of the river near highway mile 27 to the East bank of the river near highway mile 38.

(i) You may take fish, other than rainbow/steelhead trout, in the Prince William Sound Area only under authority of a subsistence fishing permit, except that a permit is not required to take eulachon. You may not take rainbow/steelhead trout, except as otherwise provided for in paragraph (e)(11) of this section.

(A) In the Prince William Sound Area within Chugach National Forest and in the Copper River drainage downstream of Haley Creek, you may accumulate Federal subsistence fishing harvest limits with harvest limits under State of Alaska sport fishing regulations provided that accumulation of fishing harvest limits does not occur during the same day.

* * * *

(ii) You may take fish by gear listed in paragraph (b)(1) of this section unless restricted in this section or under the terms of a subsistence fishing permit.

(iii) If you catch rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes, unless restricted in this section.

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

*(v) In the Upper Copper River District, you may take salmon only by fish wheels, rod and reel, or dip nets. **In the Lower Copper River Area, you may take salmon only by dip nets, rod and reel, spear, and gaff, and all salmon retained must be reported within 48 hours of harvest.***

* * * *

(ix) You may take salmon in the Upper Copper River District and in the Lower Copper River Area from May 15 through September 30 only.

* * * *

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

(A) Salmon harvest is not allowed in Eyak Lake and its tributaries, Eyak River upstream from the Copper River Highway bridge, **and Clear Creek**.

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

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

(D) **Outside of the Copper River mainstem**, you may take salmon by rod and reel, dip net, spear, and gaff year-round.

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

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

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

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

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

Justification

Harvest and escapement information indicate that sufficient salmon are present to allow a Federal subsistence fishery in the lower Copper River without creating a biological concern. The proposal provides an opportunity for Federally qualified subsistence users of Cordova that do not have access to a saltwater capable boat and drift gillnet gear to fish for Sockeye Salmon and Chinook Salmon in the lower Copper River. Projected harvest is anticipated to be very small in comparison with other user groups and concern of harvest occurring prior to salmon being counted at the Miles Lake sonar site can be addressed with a proposed modification of a reporting requirement to Area managers within 48 hours of harvest. The historic use of dip nets and the harvests of salmon in the proposed area is well-documented.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Support FP21-10 with OSM modification. The Council supports this proposal based on the information provided by OSM, showing that there would be a minimal impact on the salmon run. The Council acknowledged that some users stated their subsistence needs were not being met for both Upper River and Lower River and there is a need to provide additional harvest opportunities. ANILCA's provision for rural subsistence priority supports creating this fishery (as federal food resource should take precedence over any state use) and it is important for those underserved Federally-qualified subsistence users who do not own boats. The Council recognized that this was an issue that polarizes the community; however, they felt that the request and modification is reasonable and that allowing this fishery would provide easier and safer access to harvest this important resource. Subsistence users should be provided the opportunity to obtain their fish and any restrictions to address a conservation concern should first come from other user groups.

SUBSISTENCE REGIONAL ADVISORY COUNCIL COMMENTS

Eastern Interior Alaska Subsistence Regional Advisory Council

Note: The Eastern Interior Council wanted to share its views with the Board on this issue. However, because residents of the Eastern Interior Region do not have a C&T for the taking of fish on the Copper River in the Southcentral Region, the Eastern Interior Council's views are not entitled to deference under 805(c) of ANILCA.

Oppose FP21-10. The Council opposed this proposal due to a potential conservation concern and depletion of an important subsistence resource. The Federally qualified subsistence users in the upper Copper River that depend on the river resources have serious concerns regarding the establishment of this new fishery. The Council believes that this is not the right time to open a new fishery. There is already a lot of hardship taking place, not only in the Copper River, but also in many other Alaskan rivers that are losing King Salmon. Other salmon returns are poor as well. When salmon runs are weak, communities in the upper river have much less access to other fish resources than the users in the lower river. The Council is concerned that this fishery will specifically target King Salmon, especially since it includes rod and reel, spear or gaff. The users in the Cordova area already have multiple places to fish for other salmon species.

Additionally, the Council wanted to highlight to the Board that there appears to be a difference of positions within the community of Cordova regarding the establishment of this fishery. Some users support the fishery and some oppose. Eleven comments received by OSM prior to the proposal written comment deadline of July 2, 2020 were all in opposition to the proposal. During the meeting, the Council learned that a large number of written public comments in support solicited by the proposal proponent were given to the Forest Service and submitted to the Southcentral Alaska Council coordinator during its recent meeting. At the meeting, the public expressed frustration that these comments were submitted after the proposal written comment deadline. The Council commented that this situation made it difficult for the Council to evaluate public support or opposition to a particular proposal. Moreover, the Council became privy to information that suggested the some users in Cordova have been illegally selling their subsistence fish, because the salmon caught in this fishery are highly sought after.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Interagency Staff Committee (ISC) supports the proposal to provide a new Federal salmon subsistence fishing opportunity in the lower Copper River adjacent to the Copper River Highway for Federally qualified subsistence users, especially those residing in Cordova. We recognize that access to Sockeye Salmon in the State subsistence fishery near Cordova can be difficult for those lacking a boat and the knowledge to safely navigate to the fishery. We also recognize, however, that there are many competing fisheries and stakeholders throughout the Copper River drainage that are dependent on the health and viability of salmon stocks. For these reasons we believe that it is prudent to be cautious in creating a new Federal fishery, even though the expected harvest from this fishery is anticipated to be low.

To mitigate the potential risks associated with a new fishery in the Copper River, and to help alleviate the concerns expressed by many rural stakeholders and fishery managers, the ISC supports the OSM modification to include a requirement to report take of salmon to the delegated federal manager for the Copper River drainage within 48 hours of harvest. The ISC furthermore suggests that the Board consider a modification to open the proposed new season on June 1, rather than on May 15, to allow managers to review early run strength information provided through the initial commercial fishing periods and the Miles Lake sonar. Future proposals to adjust the season start date may be warranted once federal managers are able to ascertain the effects of a new fishery within the drainage, including the level of harvest and participation in this fishery. The NPS has been issued a Delegation of Authority Letter (DOL) to manage the Federal public waters within the Copper River Drainage in the Prince William Sound Area. If this proposal is adopted, the NPS could issue emergency special actions in response to in-season management concerns in the new fishery under the existing delegation of authority.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-10: This proposal creates a subsistence salmon fishery for residents of Cordova in the lower Copper River adjacent to the Copper River Highway with a harvest limit of 15 salmon other than pink salmon and no more than five Chinook salmon per household, using dip net, rod and reel, spear, or gaff only.

Introduction: The proponent is seeking to provide additional subsistence opportunity for residents of Cordova by creating a subsistence salmon fishery in the lower Copper River.

Impact on Subsistence Users: Adoption of this proposal would provide additional subsistence opportunity for residents of Cordova to harvest salmon in the lower Copper River.

Impact on Other Users: Adoption of this proposal would likely have little impact on the sport fishery that occurs in the lower Copper River but would have the potential to delay or impact other fisheries in the Copper River area. This section of river is difficult to sport fish and therefore supports low levels of sport effort and harvest. This new subsistence fishery would occur downstream of the Miles Lake sonar which is used to assess the salmon run in the Copper River. Although likely to be minimal, harvest of salmon downstream of the Miles Lake sonar could impact opening of commercial fisheries in the Copper River District as well as sport, personal use, and subsistence fisheries in the upper Copper River, particularly in years of low abundance.

Opportunity Provided by State:

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

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

- (1) in all fresh waters of the Prince William Sound Area, only unbaited, artificial lures may be used from April 15 - June 14;*
- (2) king salmon: may be taken from January 1 - December 31, as follows:*
 - (A) in fresh waters, as follows:*
 - (i) king salmon 20 inches or greater in length; bag limit of two fish; possession limit of four fish;*
 - (ii) king salmon less than 20 inches in length; bag and possession limit of 10 fish;*

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

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

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

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

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

Conservation Issues: There do not appear to be any conservation issues associated with this proposal.

Enforcement Issues: There do not appear to be any enforcement issues associated with this proposal.

Recommendation: ADF&G **OPPOSES** this proposal. In ANILCA Congress provided the Federal Subsistence Board (FSB) with the authority to implement a priority for taking of fish and wildlife for non-wasteful subsistence uses. Congress directed that the priority is to be implemented “whenever it is necessary to restrict the taking of populations of fish and wildlife on (federal public lands) for subsistence uses in order to protect the continued viability of such populations, or to continue such uses” through limitations based on the factors in section 804 of ANILCA. It does not authorize the FSB to open hunting or fishing opportunities except to reopen seasons or areas that were previously closed.

WRITTEN PUBLIC COMMENTS

June 29, 2020

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

Mr. Matuskowitz:

Enclosed are Ahtna Tene Nene' comments on 2021-2023 Federal Fisheries proposals. Please record them as public comments for Southcentral Subsistence Regional Advisory Council's and Eastern Subsistence Regional Advisory's recommendation, and to the Federal Subsistence Board for final decision making and action.

Sincerely,

Storia Stickwan

*for
John Dye*

Mr. John Dye,
Vice Chair

This fishery would only be open to Cordova residents. This fishery should not be additive to the limits of other State and Federal subsistence fisheries on the Copper River Delta or flats. The area we are most interested in using is the waters of the Copper River ½ mile above and below the Copper River Highway, before 38 Mile of the Copper River Highway (not sure where to place this in regulation)

Comments:

We do not support FP21-10 to open a dipnetting season in the lower Copper River District. We have a concern that if such a new fishery were allowed, federally qualified subsistence users in the Upper Copper River District would not be able harvest enough salmon to provide for themselves and their families. Dip netters in the lower Copper River Delta may take too many salmon. If salmon run is low or is delayed in the early season of the summer, federally qualified subsistence users in the Upper Copper River District will not be able to harvest salmon to meet their subsistence needs.

Federally qualified subsistence users in Cordova have an opportunity to harvest fish in both fresh marine waters. This includes the opportunity to fish for Sockeye and Coho in Ibeck Creek, Eyak River, and Alagnik Slough or through the state subsistence fishery in the marine waters of the Copper River Flats for King Salmon, Pinks, Sockeyes and Chum. Our people rely solely on the Copper River to provide for their salmon.

In a report, dated June 4, 2020, from Alaska the Department of Fish and Game, it stated that "overall sonar passage was below 45% management objective. King Salmon reached its peak and began to decline. Sockeye and King Salmon runs were poor. Management objectives will mostly likely will not be met this year both sockeye and King Salmon.

This past year has been a poor Sockeye and Chinook salmon run. Federally qualified subsistence Users in the Upper Copper River fisheries have not had subsistence needs met. To open a new permanent fisheries in the lower Copper River District would be detrimental to the Upper Copper River Fisheries.

Furthermore, those early Wild Stocks are an important indicator of how salmon is faring in the Copper River. It is imperative that the Tanada Weir have accurate early fish count numbers to enable fisheries biologist to determine salmon run strength and timing of runs.

If a Lower Copper River Delta fisheries were to occur on the main stem of the Copper River Delta, this newly established fisheries should be under the auspices of Wrangell St.-Elias National Park & Preserve.



Cordova District Fishermen United
PO Box 939 | 509 First Street | Cordova, AK 99574
phone. (907) 424 3447 | fax. (907) 424 3430
web. www.cdfu.org

June 30, 2020

Federal Subsistence Board
Office of Subsistence Management
Attn: Theo Matuskowitz

RE: Federal Subsistence Fisheries Proposal FP21-10

Members of the Southcentral Regional Advisory Council and the Federal Subsistence Board,

Cordova District Fishermen United (CDFU) is membership driven non-profit that advocates on behalf of the commercial fishing families of the Copper River, Prince William Sound, and the northern Gulf of Alaska. Our membership is diverse, and many who participate in our region's commercial fisheries are local, full-time residents who also utilize subsistence hunting and fishing opportunities to provide for their families throughout the year. Additionally, the amount necessary for subsistence (ANS) typically shows a high degree of variability dependent on commercial harvests, as many local residents bring their "homepack" out of their commercial catch each year. Subsistence fisheries are incredibly important to our community, but as you evaluate Proposal FP20-10, we ask you to consider the following as you make decisions regarding fisheries on the Copper River.

The Copper River is a system that is currently utilized by a number of user groups participating in both state and federal fisheries -- federal subsistence, commercial, sport, personal use, and state subsistence. Copper River escapement is managed through the use of sonar at the Miles Lake sonar site, and management for both upriver and downriver fisheries is dependent on accurate escapement counts at this site. Because the sonar site is so critical for management of all fisheries on the Copper River, a fishery that takes place below the sonar site, but after the well-documented commercial fishery may impact escapement and run size data without an adequate way to record harvest occurring downstream of the sonar. CDFU is concerned this may impact skew escapement data without a system in place for timely reporting.

Additionally, significant harvest opportunity currently exists within the Copper River Delta region for subsistence users. Located closer to the city center, subsistence dipnet fisheries on Ibek, Eyak, and Alaganik are more accessible for local residents and are all less dangerous river systems than the lower Copper River. All 3 of these fisheries can be accessed by foot from the road system, and do not require the use of a boat in order to participate. Furthermore,



Cordova District Fishermen United
PO Box 939 | 509 First Street | Cordova, AK 99574
phone. (907) 424 3447 | fax. (907) 424 3430
web. www.cdfu.org

subsistence gillnet harvest opportunity is provided during the salmon season concurrently with commercial gillnet openers, as well as when the commercial fishery is closed. Beginning with the 2018 season, users were afforded an additional Saturday subsistence opener, which amounted to an increase of approximately 33% more time and subsistence opportunity than previous years.

CDFU also has concerns that the proposal as written does not specify whether a user in this subsistence fishery is allowed to dipnet from a boat, or whether that act is prohibited. The proposal also fails to mention any limitation on dipnetting from shore or a boat.

Further, the proposal as written does not specify what, if any, requirement for timely reporting exists. In-season reporting is critical to sustainable management and the benefit of all fisheries on the Copper River, and enables fishery managers to make the best possible decisions for all user groups in all regions of the Copper River. It is our concern that without adequate reporting for all user groups, the overall sustainability of the run may be compromised long-term.

Recently, both our local tribal government, the Native Village of Eyak, and the Cordova City Council passed resolutions to oppose this new fishery with these same concerns in mind. It is our hope that these considerations weigh heavily in your decision making on this proposal.

Thank you for your time and consideration of our comments,

Chelsea Haisman
Executive Director

Fw: [EXTERNAL] Federal subsistence proposal FP21-10

From: Steven Gildnes <fvcapeelrington@hotmail.com>
Sent: Thursday, July 2, 2020 10:19 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Federal subsistence proposal FP21-10

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July 2, 2020

Federal subsistence board
Office of subsistence management
Attn: Theo Matuskowitz

Re: federal subsistence fisheries proposal FP21-10

Members of the Southcentral regional advisory council and the federal subsistence board.

My name is Steven Gildnes I'm a locale Cordova resident. I grew up fishing the Copper River with my family. A Copper River/ Prince William Sound drift gilnetter since 1990. I'm 3rd generation fighting to protect our majestic commercial/subsistence lifestyle here in Cordova, for myself, my son and the countless young Alaskan's dreaming of a career commercial fishing. Truly the American Dream for many across this great land.

I've been fortunate & cursed to witness The change in our fishery since the 90's. An increase in pinniped's, subsistence users, personal use, sport & state subsistence has made a dramatic impact on the way ADF&G can properly manage our omega-3 rich marketed, famous copper river salmon. With the barrier island inside King closures in effect our fleet has had to upgrade our fishing vessels to extremely expensive Twin engine jet vessels because of the volatile ocean conditions the gulf of Alaska may produce during commercial fishing openers. With this added expense we have received less time fishing in recent years. Upriver escapement data is difficult or impossible to hear read or believe. Sonar counts at miles lake (million dollar bridge) & commercial catch reports are currently the only recognized data I'm aware of.

An additional dip net subsistence fishery here is unnecessary and I fear could lead to further data loss additional patrols for an ill funded understaffed local State Trooper force. We currently have ample time and area to provide our local subsistence needs.

Thank you for your time and consideration of my comments.

Steven Gildnes

Sent from my iPhone

Fw: [EXTERNAL] Fp21-10

From: todd ladd <toddladd93@hotmail.com>
Sent: Wednesday, July 1, 2020 11:05 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Fp21-10

I oppose this proposal. I feel as if it will negatively impact the copper river fishery.

Sent from my iPhone

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Fw: [EXTERNAL] Fp21-10 opposition

From: Brandon maxwell <brandonm907@hotmail.com>
Sent: Wednesday, July 1, 2020 5:03 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Fp21-10 opposition

My name is Brandon Maxwell, I am a resident of Cordova, Ak of 25 years. I strongly oppose the proposal of the lower copper river dipnet fishery.

Sent from my iPhone

[Fw: [EXTERNAL] comments on copper river proposals

From: michael mahoney <mjmahoney22@hotmail.com>
Sent: Thursday, July 2, 2020 12:33 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] comments on copper river proposals

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Thank you for the opportunity to comment.

FP 21-10

Given the concerns that biologists, managers and stakeholders have with the king and sockeye salmon abundance on the copper river, I don't think that it would be a good idea to open up a new fishery on the lower copper river in order to target these fish (especially Kings). Therefore, I am opposed to it. Cordova residents have ample opportunity to harvest salmon resources in the area. One excellent king salmon harvest opportunity, which is utilized by many residents is the remote release site at Fleming Spit.

FP 21-11

I cannot think of any downside to this proposal. I support it. With modern communication options, there is no reason why this timely reporting would be too burdensome to the user. Good in-season management requires current data, and this is the only way for that to happen. It is time to give our managers the tools they need to protect this fishery.

FP 21-12, 13, 14

I think that all of these changes would be helpful in protecting our King salmon and I support them. All of these practices are not customary and traditional, and have resulted in a much higher efficiency levels of harvest. With the use of boats, and sonar equipment in particular, there is a corresponding profit motive from the guide services who profit from this.

Sincerely,
Mike Mahoney
PO Box 2416
Cordova, AK 99574

Native Village of Eyak

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



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

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

30 June 2020

Dear Federal Subsistence Board Members,

The Native Village of Eyak's Traditional Tribal Council has unanimously voted to oppose proposal FP21-10 which would open federal subsistence salmon harvest by dip-net and/or rod-and-reel in the lower Copper River. We base our opposition on direct input from our members after a survey, emails, phone calls, and an online meeting. Of our 73 respondents, 52 were opposed and 21 were in favor.

Subsistence is a critical part of our tribal culture and heritage, and among the many subsistence resources to which we are fortunate to have access, salmon is our most important, and the salmon of the Copper River our most prized run. The Native Village of Eyak has been dedicated to expanding access to these resources for our members in the form of both the expansion of the drift gillnet state subsistence fishery and facilitating our members' access to boats and gear.

We are committed to the sustainable management of this resource and our members have expressed great concern with inriver fisheries, and their massive expansion in Wood Canyon and to the north. Given that our sockeye runs have been weak in two of the past three years, and we have only recently recovered from a period of low Chinook abundance, we do not support expanded inriver fisheries at this time.

Limited access to salmon resources is a concern for many of our members, and we would consider re-evaluating our position after our Copper River salmon run is managed by individual stocks with inseason data, and a timely inseason reporting requirement for all user groups, under a management plan that allows managers to reduce pressure on vulnerable stocks under EO authority. We have further concern that in an area so vast, with tens of thousands of users, only two law enforcement officers are assigned to enforce fisheries regulations, and we consider this woefully inadequate for the task. Until such time as adequate law enforcement is dedicated to inriver fisheries we cannot responsibly support any expansion.

We are sensitive to the need for extra food security assurances in our remote community, especially during a pandemic. To meet this need we have expanded our cold storage by orders of magnitude, and have submitted proposals to expand access to salmon in Prince William Sound in the state subsistence fisheries and believe that this will be adequate to meet our immediate needs while we await substantial changes on

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

the Copper River which include timely reporting for all salmon harvested, stock specific management, and adequate law enforcement for inriver fisheries, at which time we would reconsider this position.

We appreciate the time spent by the proposers and the time evaluating the proposal spent by the Office of Subsistence Management and look forward to continued productive collaboration in the future to ensure the subsistence needs of our members, and all Cordovans is met.

Sincerely,

A handwritten signature in black ink that reads "Darrel Olson".

Darrel Olson
Chair
Native Village of Eyak Traditional Tribal Council

Fw: [EXTERNAL] Prince William Sound proposals

From: Thea Thomas <thea@ctcak.net>
Sent: Thursday, July 2, 2020 7:19 AM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Prince William Sound proposals

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Dear Mr. Matuskowitz,

I am a 40 year resident of Cordova, Alaska and a commercial fisherman. Over the years, i have served on several boards and presentedly am on the board of the Copper River/Prince William Sound Marketing Association and the Prince William Sound Science Center.

I am strongly opposed to proposal FP21-10. Subsistence users have more than adequate opportunity through the State of Alaska subsistence openers which occur 3 days a week, and the federal subsistence opportunity on the Eyak River.

I strongly support proposal FP21-11, FP21-12, FP21-13 and FP21-14. These proposals are important to limit over harvest in the Chitina dipnet fishery and to acquire timely data on the harvest.

Thank you

Thea Thomas
PO BOX 1566
Cordova, AK 99574
907 424 5266

Fw: [EXTERNAL] Fp21-10

From: ray renner <ray_renner4@hotmail.com>
Sent: Thursday, July 2, 2020 9:45 AM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Fp21-10

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Good Morning,

I am a 34 year resident of Cordova and a commercial fisherman and I strongly oppose the lower copper dip net fishery that is being proposed. Cordova already has ample subsistence opportunities that are currently under utilized, we do not need anymore. There is opportunities for both people with boats and without.

-Ray Renner

Fw: [EXTERNAL] Fp21-10

From: Jack Stevenson <jj.stevenson1@yahoo.com>
Sent: Thursday, July 2, 2020 8:27 AM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Fp21-10

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Good morning, I am a 29 yr resident of Cordova and strongly oppose the lower copper dip net fishery. The copper river salmon run currently faces too much pressure as it is. The commercial fleet has been managed so strictly with such few openers with our small salmon runs, while the personal use fishery continues on depleting the salmon up river. Thank you

- Jack Stevenson

Sent from my iPhone

From: Schmidt, Sabrina M <sabrina_schmidt@fws.gov> on behalf of AK Subsistence, FW7 <subsistence@fws.gov>
Sent: Wednesday, June 24, 2020 11:06 AM
To: [Matuskowitz, Theo TM](mailto:theo_matuskowitz@fws.gov) <theo_matuskowitz@fws.gov>; [Detwiler, Sue K](mailto:sue_detwiler@fws.gov) <sue_detwiler@fws.gov>; [Doolittle, Thomas C](mailto:thomas_doolittle@fws.gov) <thomas_doolittle@fws.gov>; [Kron, Tom TK](mailto:tom_kron@fws.gov) <tom_kron@fws.gov>; [Lind, Orville OL](mailto:orville_lind@fws.gov) <orville_lind@fws.gov>; [Maas, Lisa](mailto:Lisa_Maas@fws.gov) <Lisa_Maas@fws.gov>; [Pappas, George E](mailto:george_pappas@fws.gov) <george_pappas@fws.gov>; deanna.perry@usda.gov <deanna.perry@usda.gov>; [Lavine, Robbin M](mailto:robbin_lavine@fws.gov) <robbin_lavine@fws.gov>
Subject: FW: FP 21-10 Comments from Copper River Prince William Sound Advisory Committee

From: Tom and Gretchen Carpenter <whiskeyridge@ctcak.net>
Sent: Tuesday, June 23, 2020 12:39 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Cc: [steven.namitz](mailto:steven.namitz@usda.gov) <steven.namitz@usda.gov>
Subject: [EXTERNAL] FP 21-10

Federal Subsistence Board
Office of Subsistence Management
Attn. [Theo Matuskowitz](mailto:theo_matuskowitz@fws.gov)
1011 E. Tudor RD, MS 121
Anchorage, Alaska 99503

The following are the comments on proposal FP 21-10 from the Copper River Prince William Sound Advisory Committee. **This committee is unanimously opposed to proposal FP 21-10.** First we would like to make a few comments regarding timing of the comment deadline. July 2 seems quite early and in the middle of the busiest part of the year for most Alaskans. This deadline will undoubtedly lead to far fewer comments from the users in the Copper River/Prince William Sound area, which may not show the true disdain for the passage of such a regulatory change. Secondly, having to provide comments before the Federal staff has had a chance to provide the public with its analysis will lead to less understanding of the inter agency staffs position. Given that similar proposals have been sent two prior times the past 10 years, and that there was a Emergency action request sent to the Federal Board in March 2020, there has been a complete analysis that has been completed several times and this should have been included prior to the comment deadline to fully appraise the public of the staffs position.

As for proposal FP 21-10, and as we have stated above, this proposal is not a new idea. This has come before the SCRAC twice, both times being withdrawn prior the the SCRAC deliberation because of a lack of support from the users in this area. Many groups/orgs in Cordova have debated this many times, most recently with this AC, Native Village of Eyak, City of Cordova and many individuals position against the emergency action this spring. Having spent 15 years myself on the SCRAC, one of the lessons I learned along the way was the goal for the Federal subsistence program has been for communities and users to have buy in to the program through a bottom up process. For users to feel this they need to have an understanding their voices are

being heard. Giving some context to this discussion for Board members and RAC members that are new, when the Federal fishery regulations were adopted for the lower Copper River/P.W.S. region, it was stated and made clear by local users that all subsistence fisheries on the Copper River Delta were to completely exclude all tributaries of the main stem of the Copper River. This is why current rules provide for opportunity that exists currently only include Eyak River, Ibeck creek and Alaganic slough. All these systems provide opportunity for multiple species, harvest methods and access is easily accessible from maintained roads or highways, or easily navigated on the river corridors. We hope to provide further comments this fall at the SCRAC meeting if travel allows and would hope the Council and Board do not adopt FP 21-10 which will change the traditions surrounding subsistence in this area forever. Current Federal regulations provide access and opportunity. A reply that these comments were received on time would be appreciated.

Sincerely,
Tom Carpenter, Chair Copper River Prince William Sound AC
whiskeyridge@ctcak.net
PO Box 1663
Cordova, Alaska 99574
831-6131

APPENDIX 1

Total estimated sockeye salmon runs to the Copper River by fishery type with previous 11-year average, 2009 – 2019

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	10-year Average
Commercial harvest ^a	896,621	636,214	2,052,432	1,866,541	1,608,117	2,050,007	1,750,762	1,175,100	586,079	46,524	1,283,736	1,266,840
Commercial, homepack ^a	6,528	7,064	9,070	7,985	9,448	12,072	10,590	9,598	8,289	1,545	8,016	8,219
Commercial, donated ^a	47	0	0	0	0	0	0	0	0	0	0	5
Educational drift gillnet permit ^a	8	61	23	200	152	186	91	203	217	6	18	115
State Subsistence (Cordova, drift gillnet) ^b	1,764	1,980	1,783	4,270	5,639	1,675	1,403	1,075	2,448	5,189	6,163	2,723
Federal Subsistence												
(PWS/Chugach Nat'l Forest, dip net, spear, rod and reel) ^b	46	36	35	64	102	76	152	234	127	96	70	97
Federal ?? Subsistence												
(Batzulhetas, dip net, fish wheel, rod and reel, Fyke net, or spear) ^b	0	106	9	101	862	146	0	0	254	468	209	195
State Subsistence (Glenallen Subdistrict, dip net or fish wheel) ^c	46,849	70,719	59,622	76,305	73,728	75,501	81,800	62,474	41,570	39,359	60,257	62,793
Federal Subsistence (Glen-	11,836	12,849	14,163	14,461	17,789	23,889	26,753	19,181	18,415	16,736	17,718	17,607

APPENDIX 2

Total estimated Chinook salmon run to the Copper River by end user or destination with previous 10-year average, 2009–2019.

Average	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	10-year
Commercial harvest ^a	9,457	9,645	18,500	11,764	8,826	10,207	22,506	12,348	13,834	7,618	19,148	12,471
Commercial, homepack ^a	876	906	1,282	853	564	768	1,145	727	744	85	742	795
Commercial, donated ^a	0	0	0	0	0	0	0	0	0	0	0	0
Educational drift gillnet permit ^a	50	31	6	6	55	36	50	86	50	40	31	41
State Subsistence (Cordova, drift gillnet) ^b	212	276	212	237	854	153	167	73	778	1,356	808	432
Federal Subsistence (Bartzulnetas, dip net, fish wheel or spear) ^b	1		0	0	0	0	5	0	0	0	2	0 0
State Subsistence (Glennallen Subdistrict, dip net or fish wheel) ^c	3,429	2,424	2,493	2,099	2,319	2,095	2,148	1,365	2,212	2,075	2,906	4,531
Federal Subsistence (Glennallen Subdistrict, dip net, fish wheel or rod and reel) ^d	2,662	946	693	581	342	799	403	372	439	416	446	468
State Personal Use (Chitina Subdistrict, dip net) ^e	214	700	1,067	567	744	719	1,570	711	1,961	1,273	2,611	953
Federal Subsistence (Chitina Subdistrict) ^d	9	20	15	6	19	15	14	20	15	100	83	23
Sport harvest ^e	1,355	2,409	1,753	459	285	931	1,343	327	1,731	1,320	1,126	1,191
Upriver spawning escapement ^f	27,749	16,753	27,936	27,922	29,013	20,689	26,751	12,430	33,644	42,678	35,559	26,556
Total estimated Chinook salmon run size	42,996	33,181	53,889	44,312	42,885	35,322	56,174	29,243	56,133	61,663	64,483	45,580

- ^a Numbers are from fish ticket data.
- ^b Data are reported harvest from returned state and federal subsistence permits.
- ^c Data are expanded harvest from returned state and federal subsistence permits.
- ^d Data are expanded harvest from returned state and federal subsistence permits.
- ^e Upriver Chinook salmon sport harvest only; there is no Copper River Delta Chinook salmon sport harvest. The sport harvest numbers are generated from the statewide sportfish harvest survey.
- ^f Upriver Chinook salmon spawning escapement is estimated using the inriver abundance estimate and subtracting subsistence, personal use, and sport Chinook salmon harvests. Beginning in 1999, inriver abundance estimates were calculated using mark-recapture studies; prior to 1999 inriver abundance estimates were calculated using aerial and foot surveys

APPENDIX 3



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 - 6199



FOREST SERVICE

OCT 23 2017

FWS/OSM 17099.SA

Park Superintendent
Wrangell-St. Elias National Park and Preserve
P.O. Box 439
Copper Center, Alaska 99573

Dear Wrangell-St. Elias National Park and Preserve Superintendent:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the Superintendent of the Wrangell-St. Elias National Park and Preserve (Superintendent) to issue emergency special actions when necessary to ensure the conservation of a healthy fish population, to continue subsistence uses of fish, for the continued viability of a fish population, or for public safety reasons. This delegation only applies to Federal public waters subject to the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII in the Copper River Drainage within the Prince William Sound Area.

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

Wrangell-St. Elias National Park and Preserve Superintendent

2

DELEGATION OF AUTHORITY

1. **Delegation:** The Superintendent is hereby delegated authority to issue emergency special actions affecting fisheries in Federal public waters as outlined under the **Scope of Delegation** below. Although a public hearing is not required for emergency special actions, if deemed necessary by you, then public hearing on the emergency special action is recommended. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.

2. **Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: "The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board."

3. **Scope of Delegation:** The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(a) and 50 CFR 100.19(a). Such an emergency action may not exceed 60 days, and may not be extended.

This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries.

This delegation also permits you to close and re-open Federal public waters to nonsubsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve healthy populations of fish or to ensure the continuation of subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations or requests for special actions greater than 60 days, shall be directed to the Board.

The Federal public waters subject to this delegated authority are those within the Copper River Drainage within the Prince William Sound Area (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). You will coordinate all local fishery decisions with all affected Federal land managers.

4. **Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

5. **Guidelines for Review of Proposed Special Actions:** You will use the following guidelines to determine the appropriate course of action when reviewing proposed special actions.

Wrangell-St. Elias National Park and Preserve Superintendent

3

- a) Does the proposed special action fall within the geographic and regulatory scope of delegation?
- b) Have you communicated with the OSM to ensure the emergency special action is aligned with Federal subsistence regulations and policy?
- c) Does the proposed action need to be implemented immediately as an emergency special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the next regulatory cycle?
- d) Does the supporting information in the proposed special action substantiate the need for the action?
- e) Are the assertions in the proposed special action confirmed by available current biological information and/or by affected subsistence users?
- f) Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?
- g) Is the proposed special action likely to achieve the expected results?
- h) Have the perspectives of the Chair or alternate of the affected Council(s), OSM, and affected State and Federal managers been fully considered in the review of the proposed special action?
- i) Have the potential impacts of the proposed special action on all affected subsistence users and non-Federally qualified users within the drainage been considered?
- j) Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?
- k) After evaluating all information and weighing the merits of the special action against other actions, including no action, is the proposed emergency special action reasonable, rational, and responsible?

6. Guidelines for Delegation: You will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

You will provide subsistence users in the region a local point of contact about Federal subsistence fishery issues and regulations and facilitate a local liaison with State managers and other user groups. For in-season management decisions and special actions, consultation is not

Wrangell-St. Elias National Park and Preserve Superintendent

4

always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. You will also establish meaningful and timely opportunities for government-to-government consultation related to pre-season and post-season management actions as established in the Board's Government to Government Tribal Consultation Policy (Federal Subsistence Board Government to Government Tribal Consultation Policy 2012).

You will review emergency special action requests or situations that may require an emergency special action and all supporting information to determine (1) consistency with 36 CFR 242.19 and 50 CFR 100.19, (2) if the request/situation falls within the scope of your delegated authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action may be on potentially affected subsistence uses and nonsubsistence uses. Requests not within your delegated authority will be forwarded to the Board for consideration.

You will maintain a record of all special action requests and justification of your decisions. A copy of this record will be provided to the Administrative Records Specialist at OSM no later than sixty days after development of the document.

You will immediately notify the Board through the Assistant Regional Director for the OSM, and coordinate with the Chair or alternate of the affected Council(s), local ADF&G managers, and other affected Federal conservation unit managers concerning emergency special actions being considered.

If the timing of a regularly scheduled meeting of the affected Council(s) permits without incurring undue delay, you may seek Council recommendations on the proposed emergency special action.

You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify Council representatives, the public, OSM, affected State and Federal managers, and law enforcement personnel. If an action is to supersede a State action not yet in effect, the decision will be communicated to Council representatives, the public, OSM, and State and Federal managers at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponents of the request immediately.

You may defer an emergency special action request, otherwise covered by the delegation of authority, to the Board in instances when the proposed management action will have a significant impact on a larger number of Federal subsistence users or is particularly controversial. These options should be exercised judiciously and only when sufficient time allows. Such deferral should not be considered where immediate management actions are necessary for conservation purposes. The Board may determine that an emergency special action request may be best handled by the Board, subsequently rescinding the delegated authority for the specific action only.

Wrangell-St. Elias National Park and Preserve Superintendent

5

7. Reporting: You must provide to the Board, through the Assistant Regional Director for the OSM, a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15. A summary of emergency special action requests and your resultant actions must be provided to the coordinator of the appropriate Council(s) at the end of the calendar year for presentation during regularly scheduled Council meetings.

8. Support Services: Administrative support for your local fisheries management activities will be provided by the Office of Subsistence Management.

Should you have any questions about this delegation of authority, please feel free to contact the Assistant Regional Director for the OSM at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,



Anthony Christianson
Chair

Enclosure: Map of the Copper River Drainage within the Prince William Sound Area

cc: Federal Subsistence Board
Assistant Regional Director, Office of Subsistence Management
Deputy Assistant Regional Director, Office of Subsistence Management
Subsistence Policy Coordinator, Office of Subsistence Management
Fisheries Division Supervisor, Office of Subsistence Management
Chair, Southcentral Alaska Subsistence Regional Advisory Council
Superintendent, Wrangell-St. Elias National Park and Preserve
Forest Supervisor, Chugach National Forest
Regional Special Agent in Charge, USFS
Regional Subsistence Group Leader, USDA-FS
Assistant Regional Director, Law Enforcement, U.S. Fish and Wildlife Service (Region 7)
Glacier District Ranger, Glacier Ranger District
Fishery Biologist, Wrangell- St. Elias National Park and Preserve
Commissioner, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record



FP21-11 Executive Summary	
General Description	Proposal FP21-11 requests the Board require that daily harvest of salmon be recorded and reported to the agency issuing the permit within three days of harvest in the Upper Copper River District. <i>Submitted by: Kirk Wilson.</i>
Proposed Regulation	<p>§ _____.27(e)(11) <i>Prince William Sound Area</i></p> <p>(xi) <i>The following apply to Upper Copper River District subsistence fishing permits:</i></p> <p style="text-align: center;">***</p> <p><i>(C) You must return your permit no later than October 31 of the year in which the permit is issued, You must record your daily harvest and report them to the agency that issued your permit within three (3) days of when the harvests occurred, or you may be denied a permit for the following year. You must report harvest attempts for any days during which your fishing gear was in the water, even if you did not catch any fish.</i></p>
OSM Conclusion	Oppose
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	Support
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	Support

FP21-11 Executive Summary	
Interagency Staff Committee Comments	<p>The Interagency Staff Committee (ISC) appreciates the willingness of Federally qualified sub-sistence users (FQSUs) to initiate steps to conserve subsistence resources. In the case of fisheries proposal FP21-11, which calls for in-season reporting of salmon harvest within the Upper Cop-per River District, we do not believe that it is appropriate to implement such a requirement currently. Such a requirement is not currently in place within the State salmon fisheries in this area and the local State manager has suggested that in-season reporting is not needed for management purposes at this time. Most upriver harvest of salmon is in State managed fisheries and the State management plan does not currently incorporate in-season harvest data. The proposed requirement would place a burden on both FQSUs and staff, without a clear plan for use of the resulting data in making management decisions. Federal staff have expressed concern that requiring in-season reporting could erode end-of-season reporting compliance, which are arguably more important data at this time, and that multiple requirements may confuse users. Adding to this, user-friendly tools for reporting in-season harvest information are not currently available. We suggest that the Board consider directing the Office of Subsistence Management to explore the possibility of an online reporting system, accessible by cell phone or computer, that provides for individual user accounts, the ability to see one’s permits, to view the status of pre-vious reporting, and which can provide automated data summaries. This would reduce the need for Federal staff to enter individual reports.</p> <p>If the State were to implement in-season reporting requirements and include such data in their management plan, and if user-friendly tools were in place to report individual in-season harvest events, re-evaluation of the burden on subsistence users could occur through a future proposal.</p>
ADF&G Comments	Oppose
Written Public Comments	4 Support, 1 Support with modification

STAFF ANALYSIS
FP21-11

ISSUES

Proposal FP21-11, submitted by Kirk Wilson of Glennallen, requests that the Federal Subsistence Board (Board) require that in the Upper Copper River District daily harvest of salmon must be recorded and reported to the agency issuing the permit *within three days of harvest*, and that reports must be made for any day that fishing gear was in the water.

DISCUSSION

The proponent states that Copper River fisheries managers currently rely on an abundance-based management model that does not collect in-season harvest data. The current management model assumes that escapement can be accurately estimated based on data from the Miles Lake Sonar combined with harvest reports from previous years, which may not reflect actual escapement to the spawning grounds. The proponent further states that recent events suggest that the harvest exceeds what can be biologically sustained and is not being detected by the current harvest reporting system. The proponent believes that obtaining accurate in-season harvest information would help to protect against the possibility of overharvest. Upon follow-up with the proponent, he clarified that this request pertains only to the Upper Copper River District (**Figure 1**).

Existing Federal Regulation

§____.27(e)(11) Prince William Sound Area

(xi) The following apply to Upper Copper River District subsistence fishing permits:

(C) You must return your permit no later than October 31 of the year in which the permit is issued, or you may be denied a permit for the following year.

Proposed Federal Regulation

§____.27(e)(11) Prince William Sound Area

(xi) The following apply to Upper Copper River District subsistence fishing permits:

(C) You must return your permit no later than October 31 of the year in which the permit is issued, ~~You must record your daily harvest and report them to the agency that issued your permit within three (3) days of when the harvests~~

occurred, or you may be denied a permit for the following year. You must report harvest attempts for any days during which your fishing gear was in the water, even if you did not catch any fish.

Existing State Regulation

5 AAC 01.015 Subsistence fishing permits and reports

(c) If the return of catch information necessary for management and conservation purposes is required by a subsistence fishing permit, a permittee who fails to comply with such reporting requirements is ineligible to receive a subsistence permit for that activity during the following calendar year, unless the permit applicant demonstrates to the department that failure to report was due to loss in the mail, accident, sickness or other unavoidable circumstances.

Relevant Federal Regulation

§__.27(c) Fishing permits and reports

(2) If a subsistence permit is required by this section, the following permit conditions apply unless otherwise specified in this section:

(iv) If specified on the permit, you must record, prior to leaving the fishing site, daily records of the catch, showing the number of fish taken by species, location and date of catch, and other such information as may be required for management or conservation purposes; and

(v) If the return of catch information necessary for management and conservation purposes is required by a fishing permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances.

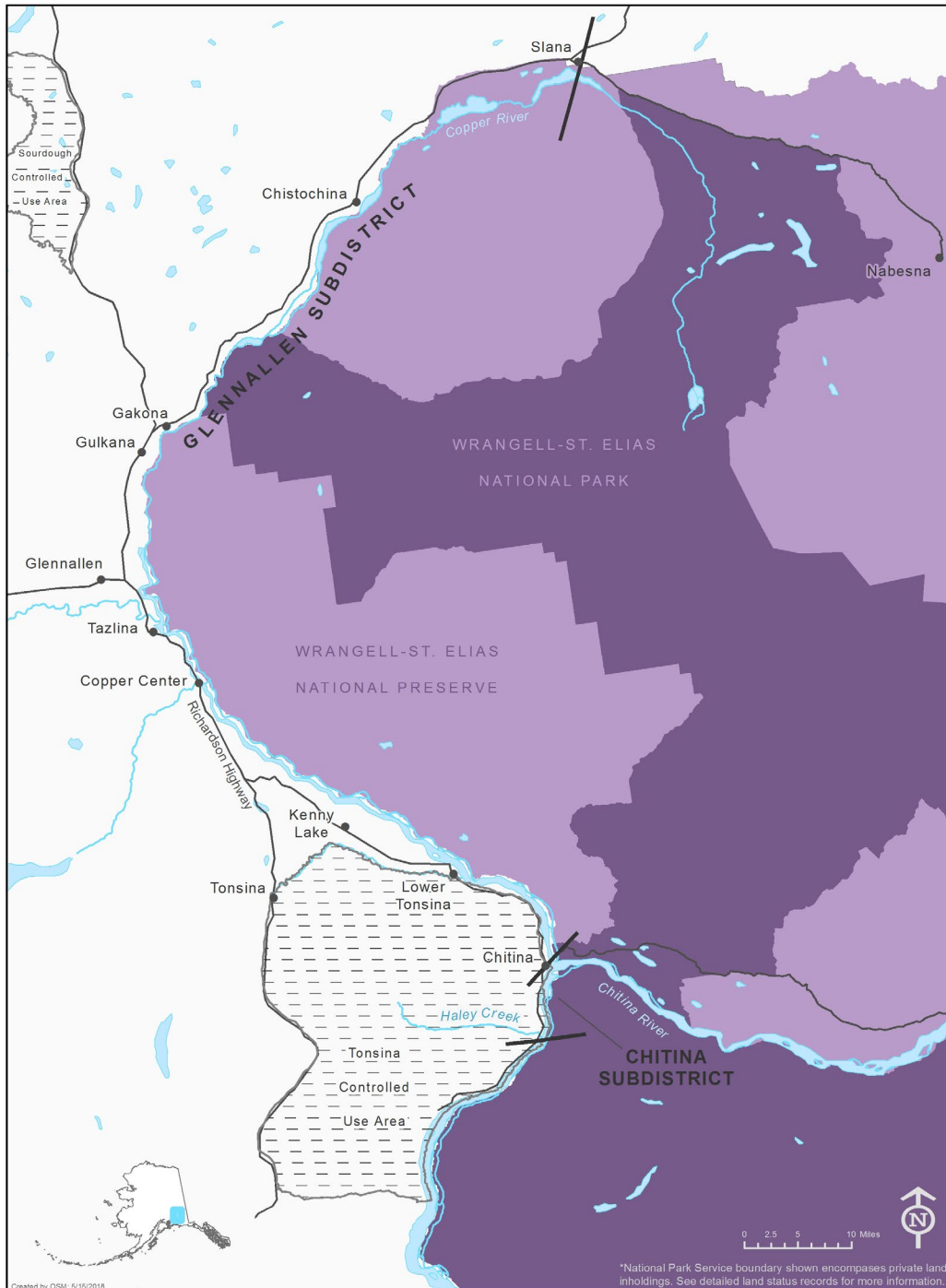


Figure 1: Upper Copper River drainage, showing exterior boundary of Wrangell-St. Elias National Park and Preserve as well as the Chitina and Glennallen Subdistricts of the Upper Copper River District.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters comprise those waters within and adjacent to the exterior boundaries of Wrangell-St. Elias National Park and Preserve (**Figure 1**).

The Upper Copper River District is comprised of the Chitina Subdistrict and the Glennallen Subdistrict. The Subdistricts are geographically defined in the same way in Federal and State regulation. The Chitina Subdistrict consists of all waters of the mainstem Copper River downstream of the downstream edge of the Chitina-McCarthy Road Bridge to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek, as designated by Alaska Department of Fish and Game (ADF&G) regulatory markers, a distance of approximately ten miles. The Glennallen Subdistrict consists of all waters of the mainstem Copper River from the mouth of the Slana River downstream to the downstream edge of the Chitina-McCarthy Road Bridge, a distance of approximately 120 miles.

Customary and Traditional Use Determinations

Glennallen Subdistrict

Rural residents of the Prince William Sound Area and residents of Cantwell, Chickaloon, Chisana, Dot Lake, Dry Creek, Healy Lake, Northway, Tanacross, Tetlin, Tok, and those individuals living along the Alaska Highway from the Alaskan/Canadian border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road have a customary and traditional use determination for salmon in the Glennallen Subdistrict of the Upper Copper River District.

Chitina Subdistrict

Rural residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road have a customary and traditional use determination for salmon in the Chitina Subdistrict of the Upper Copper River District.

Regulatory History

In 1999, regulations were adopted by the Board when promulgating the initial Federal regulations for fish in *navigable* waters; residents of the Prince William Sound Area were initially listed as having customary and traditional use of salmon in the Glennallen Subdistrict (64 Fed. Reg. 5. 1276-1313 [January 8, 1999]). In 2001, the Board adopted Proposal FP01-15, which established a customary and traditional use determination for salmon in the Chitina Subdistrict. The same year, the Board also adopted a modified version of Proposal FP01-16, submitted by the Copper River Native Association,

which defined seasonal harvest limits as requested, and created a Federal subsistence fishing season from May 15 to September 30.

In 2002, the Board adopted Proposal FP02-17, submitted by Wrangell-St. Elias National Park Subsistence Resource Commission, requesting changes to regulations in addition to a review of eligible subsistence fishers for the district. The proposal was split into two proposals; Proposal FP02-17a added communities to the customary and traditional use determinations for the Glennallen and Chitina Subdistricts. Proposal FP02-17b allowed those with customary and traditional use determination to obtain a permit for each subdistrict in the same year. Additionally, FP02-17b ensured that combined harvests from both subdistricts would not exceed the harvest limit set for the Glennallen Subdistrict, and allowed for multiple gear types to be specified on each permit. In 2002, the Board created a Federal permit requirement for the Upper Copper River District administered by the National Park Service.

In 2006, the Board took no action on Proposal FP06-20, which was submitted by the Ahtna Tene Nene' Subsistence Committee and requested that fish wheels in the Upper Copper River District be equipped with a live box unless checked every 4 hours. The Southcentral Alaska Subsistence Regional Advisory Council opposed this proposal, and the Eastern Interior Alaska Subsistence Regional Advisory Council recommended no action. The same year, the Board considered Proposal FP06-21, submitted by Ahtna Tene Nene' Subsistence Committee, requesting that fish wheels in the Upper Copper River District be checked and all fish removed every 24 hours. The Southcentral Alaska Regional Advisory Council supported the proposal with modification to require that fish wheels in the Upper Copper River District be checked at least every 48 hours and all fish removed. The Eastern Interior Alaska Subsistence Regional Advisory Council opposed the proposal. The Board adopted Proposal FP06-21 with modification to require fish wheel operators to check their fish wheels every 10 hours.

That year the Board also considered Proposal FP06-22, submitted by the Ahtna Tene Nene' Subsistence Committee, which requested that fyke nets be allowed to harvest up to 1,000 salmon in Tanada Creek upstream of the weir and that incidental harvests of other fish be allowed. The Board adopted this proposal with modification recommended by the Southcentral Alaska Regional Advisory Council to limit use to only one fyke net after consultation with in-season manager, to require that the subsistence user be present during use, and to ensure that Chinook Salmon incidentally caught be released unharmed.

In 2007, the Board considered and rejected Proposal FP07-14, which was submitted by Cris Grimwood of Cordova. This proposal requested a three month opening in the lower Copper River using dip net or rod and reel with eggs. It was opposed by the Southcentral Alaska Regional Advisory Council. The same cycle, the Board considered and rejected Proposal FP07-15, submitted by the Ahtna Tene Nene' Subsistence Committee, which would have required that fish wheels be removed to above the high water mark at the end of the season. Both the Southcentral Alaska and the Eastern Interior Alaska Regional Advisory Councils opposed this proposal. Finally, in 2007, the Board considered and rejected FP07-16, submitted by the Ahtna Tene Nene' Subsistence Committee, which would have required that fish wheels be at least 200 feet apart. The Southcentral Alaska Regional Advisory Council opposed the proposal, and the Eastern Interior Alaska Regional Advisory Council deferred to the home region.

In 2019 the Board adopted Proposals FP19-15 and FP19-16, both of which were submitted by Wrangell-St. Elias National Park and Preserve. Proposal FP19-15 requested that requirements to check fish

wheels on the Upper Copper River be transferred from the wheel owner to the operator. Proposal FP19-16 clarified regulatory language, changing specifications for permits so that one unit of gear *per person* could be operated at one time, rather than one unit of gear at one time. The Southcentral Alaska and the Eastern Interior Alaska Subsistence Regional Advisory Councils both supported these proposals.

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

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

A proposal similar to the one under consideration in this analysis was submitted to the State in 2020, and will be considered along with other Prince William Sound proposals at the Alaska Board of Fisheries meeting in March 2021. This proposal was submitted by Karen Linell, and would require inseason reporting of subsistence, sport fish and personal use harvest and effort on the Copper River under State regulations.

Federal and State Permit Reporting Requirements and Seasons in the Upper Copper River District

The Federal fishing season for salmon in the Upper Copper River District is from May 15 through September 30. Permits must be returned by mail or in person no later than October 31 (**Table 1**). A permittee who does not return his or her permit may be denied a permit for the following year.

The Glennallen Subdistrict State subsistence salmon fishery is open June 1 through September 30. Permit holders must return their permits by mail or in person when they have completed fishing for the season, or by October 31. A permittee who fails to return his or her subsistence fishing permit may be ineligible to receive a subsistence permit for the Copper River for the following calendar year.

The Chitina personal use fishery opens between June 7 and 15 through August 31 during periods established by emergency order, and the fishery remains open 24/7 by regulation from September 1 through September 30. Reports for the Chitina personal use fishery are due by October 15. Beginning in 2020, harvest reports must be submitted online, and are no longer accepted through hand-delivery or mail. Per State regulations, failure to report online by the deadline results in ineligibility for the Chitina personal use salmon fishery permit the following year.

Table 1: Current harvest report due dates and methods of delivery for Federal and State fisheries in the Upper Copper River District.

Fishery	Permit distribution	Harvest report due date	Method of harvest report submission
Federal Upper Copper River District permits (Glennallen and Chitina Subdistricts)	NPS Wrangell-St. Elias Visitor Centers in Copper Center, Slana, and Chitina. Park staff in McCarthy, and FWS staff at the Tetlin National Wildlife Refuge	October 31	By mail, by phone, or in-person
State Glennallen Subdistrict subsistence fishery	ADF&G offices in Glennallen, Tok, Delta Junction, Fairbanks, Palmer, Anchorage	October 31	By mail or in-person
State Chitina Subdistrict personal use fishery	Online or at ADF&G offices in Glennallen, Tok, Delta Junction, Fairbanks, Palmer, Anchorage	October 15	As of 2020, must be submitted online

Current Events Involving the Species

The 2020 Copper River Sockeye Salmon run was much weaker than expected with a cumulative Miles Lake Sonar estimate of 530,313 fish on July 29th, the last day of operation (ADF&G 2020e). The cumulative passage estimate lagged behind the management object of 628,553 fish. Closures of both the commercial gillnet fishery at the mouth of the river and the Chitina Subdistrict personal use salmon dip net fishery were required to provide more fish towards the escapement (ADF&G 2020b, ADF&G 2020c).

Cultural Knowledge and Traditional Practices

Ahtna Athabascan people have harvested Sockeye, Chinook, and Coho Salmon in the Copper River Basin for at least 1,000 years (Workman 1976). The presence of Upper Tanana Athabaskans fishing in the Upper Copper River was noted in 1885 and long-term kinship and trading ties between the Ahtna and Upper Tanana have been documented (Haynes et al. 1984). Sockeye Salmon are the most important species used in the area, followed by Chinook Salmon.

The Ahtna traveled to seasonal camps throughout their territory based upon resource availability. Fish camps were located on the Copper River and several major tributaries (De Laguna and McClellan 1981). Early June and July was the preferred time for fishing Sockeye Salmon runs headed for streams

and lakes in the Upper Copper River, as this was the best time for making *ba'*, or dried fish (Simeone and Kari 2002).

There are eight contemporary Ahtna villages, (Mentasta Lake, Chistochina, Gakona, Gulkana, Tazlina, Copper Center, Chitina, and Cantwell) almost all of which are located near traditional fishing camps. Other communities situated on or near the banks of the Copper River include Slana, Gakona Junction, Nabesna, Willow Creek, Kenny Lake, and Tonsina. Salmon remain vital to the subsistence way of life for those living in the Upper Copper River Basin (Reckord 1983, Brady et al. 2013). In comprehensive subsistence surveys conducted by the ADF&G, it has been shown that salmon comprise a majority of the annual harvest in most communities along the Copper River drainage (La Vine and Zimpelman 2014). Salmon made up 78% of the overall subsistence harvest in edible weight in Chitina in 2012, 68% of the overall subsistence harvest in Tazlina in 2013, and 66% of the subsistence harvest in Kenny Lake in 2012 (ADF&G 2020d; **Table 2**).

Table 2: Salmon harvest by select rural communities with C&T for salmon in the Upper Copper River Drainage (ADF&G 2020d).

Community	Survey year	Pounds of salmon per capita	Percentage of overall harvest comprised of salmon
Chitina	2012	191.59	78%
Tazlina	2013	102.14	68%
Kenny Lake	2012	93.61	66%
Gulkana	2012	91.69	64%
Copper Center	2010	129.25	61%
Chistochina	2009	94.22	58%
Glennallen	2013	56.97	58%
Gakona	2012	95.94	56%
McCarthy	2012	45.78	53%
Tonsina	2013	101.76	51%
Slana	2010	95.74	47%
Dot Lake	2011	44.16	37%
Mentasta Lake	2010	43.46	29%
Tok	2011	51.32	25%
Cantwell	2012	15.18	15%
Northway	2014	40.81	13%
Dry Creek	2010	17.23	12%

Fish wheels are the predominant gear used by communities in the Upper Copper River Basin. For example, in 2013, Glennallen residents harvested 88% of their salmon (in edible weight) by fish wheel. Gulkana residents took 91% of their salmon harvest by fish wheel, and Tazlina residents took 88% of their salmon harvest by fish wheel (Holen et al. 2015). In contrast, the percent of the salmon harvest

taken by dip nets for these communities was quite low, at 3.4% for Glennallen, 2% for Gulkana, and 3% for Tazlina (Holen et al. 2015). Flooding and high water levels have created challenges to installing, maintaining, and accessing fish wheels in recent years (Holen et al. 2015). The Upper Copper River District is easily accessible via the Richardson and Glenn Highways, and competition for resources is a main concern for local residents (Holen et al. 2015).

Biological Background and Harvest History

The Copper River supports multiple runs of salmon, but Sockeye Salmon (*Oncorhynchus nerka*) and Chinook Salmon (*Oncorhynchus tshawytscha*) are the two species primarily targeted in the Federal subsistence fisheries. Federally qualified subsistence users are restricted to three areas of the upper Copper River, the Chitina and Glennallen Subdistricts and the Batzulnetas area. Sockeye Salmon is the most abundant species, and is the main fish targeted by all user groups in both the Chitina and Glennallen subdistricts. The 2019 estimated subsistence salmon harvest by Federally qualified subsistence users in the Glennallen Subdistrict was 15,873 Sockeye Salmon and 949 Chinook Salmon. The Sockeye Salmon harvest was below the 10-year average of 16,635 fish while the Chinook Salmon harvest was above the 10-year average of 730 fish (**Table 3**). A smaller number of salmon are harvested by Federally qualified subsistence users in the Chitina Subdistrict. The 2019 estimated subsistence salmon harvest by Federally qualified subsistence users in the Chitina Subdistrict was 4,451 Sockeye Salmon and 83 Chinook Salmon. Both Sockeye and Chinook Salmon harvests were above the 10-year average of 2,376 Sockeye Salmon and 31 Chinook Salmon (**Table 4**).

Salmon are harvested in the State subsistence fishery in the Glennallen Subdistrict in greater numbers than Federal subsistence harvest. The estimated subsistence salmon harvest by State salmon dip net and fish wheel permit holders in the Glennallen Subdistrict within the last 10-years (2010-2019) averaged 64,320 Sockeye Salmon and 2,569 Chinook Salmon (**Table 5**). Additionally, salmon are harvested from the Chitina Subdistrict personal use dip net fishery with a 10-year average harvest of 148,458 Sockeye Salmon and 1,193 Chinook Salmon (**Table 6**).

The largest harvest of Sockeye and Chinook Salmon migrating up the Copper River occurs in the Copper River District marine waters near the mouth of the river during the commercial drift gillnet fishery. Over the last 10-years (2010 -2019) an average of 1,303,861 Sockeye Salmon and 13,265 Chinook Salmon were harvested in the Copper River District by the commercial fishery (ADF&G 2018, ADF&G 2019, Vega 2018). In addition to the commercial fishery, a State subsistence drift gillnet fishery also occurs in the Copper River District (ADF&G 2020a, Vega 2018). The estimated subsistence salmon harvest by State subsistence salmon permit holders in the Copper River District averaged 3,231 total salmon for the previous 10-year period (2009-2018) of which 2,800 were Sockeye Salmon and 431 were Chinook Salmon (Somerville 2020).

The ADF&G relies on the passage estimates provided by the adaptive resolution imaging sonar (ARIS) units at Miles Lake to manage the Commercial Fisheries Division and provide for upriver escapement and fishery allocation. Currently, there is concern for the low return of Sockeye Salmon into the Copper River. The downward trend occurring in 2020 is a departure from previous Sockeye Salmon

returns. Over the 10-year (2010-2019), spawning escapement estimates have been within or have exceeded the current sustainable escapement goal of 360,000–750,000 Sockeye Salmon as estimated by Miles Lake sonar (Vega 2018). The 2019 Sockeye Salmon spawning escapement estimate for the Copper River was 741,771 fish (Somerville 2020).

Over the 10-year period (2010-2019), Chinook Salmon escapement estimates have ranged from a low of 12,485 in 2016 to a high of 42,204 fish in 2018 (Somerville, 2020, Vega 2018). In 2010, 2014 and 2016 escapement estimates were below the sustainable escapement goal (SEG) of 24,000 Chinook Salmon mandated in the State’s management plan. The 2019 Chinook Salmon escapement estimate for the Copper River was 36,627 fish, which is above the 10-year (2010-2019) average escapement of 27,413 Chinook Salmon (ADF&G 2018, 2020d). In 2017, the SEG was reached through a cooperative effort, pre-season management actions directed at Chinook Salmon conservation. The State restricted its upriver subsistence fishery and closed both the upriver sport and the Chitina personal use fisheries (ADF&G 2017, FSB 2017), and the Federal in-season manager issued Chinook Salmon emergency special actions in the Upper Copper River District, delaying the season start date for the Federal subsistence fisheries and reducing the Federal subsistence Chinook Salmon harvest limit for the gear types of dip net and rod and reel (the gear types that would allow selective release of live fish). These early-season 2017 restrictions were rescinded after abundance assessments indicated adequate escapement to meet the SEG. The 2019 Chinook Salmon escapement estimate for the Copper River was 36,627 fish, which is above the 10-year (2010-2019) average escapement of 27,413 Chinook Salmon (Somerville 2020, Vega 2018).

Table 3: Estimated harvest of Sockeye, Chinook and Coho Salmon by Federally qualified subsistence users in the Glennallen Subdistrict 2010 - 2019 (Sarafin 2020, pers. comm.).

Glennallen Subdistrict Federal subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	269	88	12,849	342	73
2011	277	88	14,163	799	60
2012	275	92	14,461	403	85
2013	273	89	15,834	372	27
2014	315	91	21,614	439	25
2015	325	92	24,695	416	14
2016	320	83	15,884	446	11
2017	338	85	15,691	468	1
2018	335	91	15,287	2662	0
2019	343	90	15,873	949	0
10-yr avg	307	89	16,635	730	30

Table 4: Estimated harvest of Sockeye, Chinook and Coho Salmon by Federally qualified subsistence users in the Chitina Subdistrict 2010 - 2019 (Sarafin 2020, pers. comm.).

Chitina Subdistrict Federal subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	92	86	2399	20	38
2011	85	86	2059	15	9
2012	89	94	1427	6	9
2013	99	91	2199	19	9
2014	113	95	1636	15	72
2015	111	93	2404	14	15
2016	128	81	1925	20	41
2017	132	80	1828	15	9
2018	132	92	3430	100	31
2019	181	90	4451	83	22
10-yr avg	116	89	2376	31	26

Table 5: Estimated Harvest of Sockeye, Chinook and Coho Salmon in the Glennallen Subdistrict State subsistence fishery 2010 - 2019 (Somerville 2020, Vega 2018).

Glennallen Subdistrict State subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	1321	72	70719	2099	293
2011	1306	74	59622	2319	372
2012	1527	69	76305	2095	335
2013	1339	73	73728	2148	143
2014	1656	66	75501	1365	233
2015	1631	70	81800	2212	77
2016	1769	64	62474	2075	45
2017	1632	64	39859	2935	57
2018	1659	61	40806	5006	151
2019	1713	68	62384	3439	204
10-yr avg	1555	68	64320	2569	191

Table 6: Estimated harvest of Sockeye, Chinook and Coho Salmon in the Chitina Subdistrict State personal use fishery 2010 - 2019 (Somerville 2020, Vega 2018).

Chitina Subdistrict State personal use fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	9970	61	138487	700	2013
2011	9217	62	128052	1067	1702
2012	10016	58	127143	567	1385
2013	10592	64	180663	744	797
2014	11717	61	157215	719	1129
2015	12635	62	223080	1570	841
2016	11394	55	148982	711	1182
2017	9490	65	132694	1961	715
2018	4982	61	77112	1274	1439
2019	8071	68	171252	2618	1042
10-yr avg	9808	62	148468	1193	1225

Effects of the Proposal

Currently Federal subsistence permits for both the Glennallen and Chitina Subdistricts require fishers to keep accurate daily records of their catch, showing the number of fish taken by species, location, and date. This information must be reported by October 31 of each year, and can be submitted in-person or through mail.

If this proposal is adopted, households fishing for salmon in the Upper Copper River District under a Federal subsistence permit would be required to report harvest data within three days of the harvest date. This change would not require that any new information be collected under Federal subsistence permits, but would require rapid in-season reporting to the National Park Service.

Adopting this proposal as written would place an additional burden on Federally qualified subsistence users fishing under Federal subsistence permits to report their harvest within three days. Currently, there is no app developed for reporting fish harvests to managers at the National Park Service, so reports would need to be submitted through a web interface or over the phone. The viability of in-season reporting would depend on users having reliable access to phone or internet service. This proposal would make in-season phone or internet access a pre-condition for participating in the subsistence harvest in compliance with regulations.

In-season reporting can provide more accurate and timely information for in-season managers, resulting in more responsive and effective management decision, but only if an in-season management system can be put in place. However, in-season management can also result in more variable fishing schedules as the season could be opened and closed.

Currently, Federal subsistence fishing permit reports in the Upper Copper River are required to be returned by October 31. State subsistence fishing permit reports in the Glennallen subsistence fishery are also required to be returned by October 31. The State personal use fishery in Chitina requires permit reporting by October 15. If adopted, the reporting timeline for Federally qualified subsistence users would be significantly stricter than for those fishing under State subsistence permits in the Glennallen Subdistrict or even State personal use permits in the Chitina Subdistrict.

While adopting this proposal would place an additional burden on households fishing under a Federal permit in the Upper Copper River District, this burden would be justifiable if a commensurate conservation benefit could be obtained for salmon. However, fishing under Federal permits makes up a relatively small portion of the overall harvest in the Upper Copper River, and it is unclear how useful this partial information would be in the absence of in-season reporting under State permits. In years of low abundance, the first conservation step is to limit the commercial harvest at the mouth of the river where large numbers of salmon are harvested. Another option to consider is to address reporting requirements as a condition of the permits through the existing scope of the delegation of authority already granted to the Federal in-season manager. However, the Board may want to provide guidance for any changes to these reporting requirements.

OSM CONCLUSION

Oppose Proposal FP21-11.

Justification

Adopting this proposal as written would place an additional burden on those fishing under Federal subsistence permits in the Upper Copper River District to report their harvest within three days. If adopted, the reporting timeline for Federally qualified subsistence users would be significantly stricter than for those fishing under State subsistence permits in the Glennallen Subdistrict or even state personal use permits in the Chitina Subdistrict.

Reports would need to be submitted through a web interface or over the phone. This proposal would make in-season phone or internet access a precondition for participating in the subsistence harvest in compliance with regulations.

Adopting this proposal would place an additional burden on Federally qualified subsistence users fishing under a Federal permit in the Upper Copper River District. This burden would be justifiable if paired with conservation benefit. However, fishing under Federal permits makes up a relatively small portion of the overall harvest in the Upper Copper River, and this partial information would not be valuable for management purposes in the absence of in-season reporting under State permits.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Support FCR21-11. This regulation would provide timely in-season, in-river data to aid in fisheries management, and although the Council does not support more requirements for the Federally qualified subsistence user, they did not feel this was overly burdensome as many other hunts/fisheries have similar reporting requirements in place to benefit management of the resource. The Council voiced their hope that the State would follow and require the same reporting under State regulations to gather this important information as the Federal harvest is only 8 – 10% of the harvest on the Copper River.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support FCR21-11. The Council supported this proposal due to the increased use of upper Copper River fish by users from all over the state. The Council indicated in-season harvest monitoring and estimation are needed to prevent overharvest and allow managers to timely respond during years with weak runs. The Council believes that there might be a conservation concern and does not want to see fish declining in the Copper River. The Council thinks that in-season reporting would be very beneficial to managers. The Federal program should lead the way in this type of monitoring for the State to follow, and the State and Federal programs should work together to achieve the best harvest management. This reporting would not be a burden to users. Almost everyone has telephones or other ways to access the internet. The Council pointed out that all Yukon River communities on the road system must fill out catch calendars. The Yukon River communities that are not on the road system must fill out in-season reports. The Council expressed an opinion that similar harvest monitoring and reporting should be instituted in more areas than just the Copper River. Additionally, the Council noted that on the Taylor Highway successful caribou hunters must report their harvest within three days under State regulations, and if this works for reporting wildlife harvest, then it should work for reporting fish harvest. This proposed regulation is a step in the right direction for the better future of fisheries in Alaska.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Interagency Staff Committee (ISC) appreciates the willingness of Federally qualified subsistence users (FQSUs) to initiate steps to conserve subsistence resources. In the case of fisheries proposal FP21-11, which calls for in-season reporting of salmon harvest within the Upper Copper River District, we do not believe that it is appropriate to implement such a requirement currently. Such a requirement is not currently in place within the State salmon fisheries in this area and the local State manager has suggested that in-season reporting is not needed for management purposes at this time. Most upriver harvest of salmon is in State managed fisheries and the State management plan does not currently incorporate in-season harvest data.

The proposed requirement would place a burden on both FQSUs and staff, without a clear plan for use of the resulting data in making management decisions. Federal staff have expressed concern that requiring in-season reporting could erode end-of-season reporting compliance, which are arguably more important data at this time, and that multiple requirements may confuse users. Adding to this, user-

friendly tools for reporting in-season harvest information are not currently available. We suggest that the Board consider directing the Office of Subsistence Management to explore the possibility of an online reporting system, accessible by cell phone or computer, that provides for individual user accounts, the ability to see one's permits, to view the status of previous reporting, and which can provide automated data summaries. This would reduce the need for Federal staff to enter individual reports.

If the State were to implement in-season reporting requirements and include such data in their management plan, and if user-friendly tools were in place to report individual in-season harvest events, re-evaluation of the burden on subsistence users could occur through a future proposal.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-11: This proposal requires that in the Upper Copper River District daily harvest of salmon must be recorded and reported to the agency issuing the permit within three days of harvest, and that reports must be made for any day that fishing gear was in the water.

Introduction: The Alaska Department of Fish and Game (ADF&G) manages the upper Copper River salmon fisheries based on regulatory inriver goals and abundance as determined at the Miles Lake sonar. The department uses historical (prior 40+ years) harvest and effort reports information on run strength and timing to reliably predict inseason harvest that are needed to achieve escapement goals. With abundance-based management, guided by several management plans and additional emergency order authority, the department has met or exceeded the lower bound Copper River drainage sockeye salmon escapement goal in all the past 20 years and the king salmon lower bound escapement goal in 14 of the last 20 years. In response to several weak returns since 2009, the department has implemented closures in the Chitina Subdistrict personal use salmon dip net fishery, reduced limits in the Glennallen Subdistrict subsistence salmon fishery, and imposed restrictions and closures in the Upper Copper River sport fisheries to ensure achievement of the king salmon drainage wide spawning escapement goal. In 2018 and 2020, the department used its emergency order authority to restrict fishing time in the Chitina Subdistrict personal use salmon dip net fishery beyond that determined by the *Copper River Personal Use Dip Net Salmon Fishery Management Plan* to reduce sockeye salmon harvest in that fishery in response to low return numbers. In 2018 the department also reduced fishing time in the Glennallen Subdistrict subsistence fishery and closed the Upper Copper River sport fisheries for sockeye salmon.

Harvests and effort patterns in the subsistence and personal use fisheries are very predictable on a weekly basis and correlate strongly with run strength. The uncertainty associated with weekly changes in sonar counts far outweighs any potential gains achieved through a 3-day harvest report. Far more important is responding to poor weekly sonar counts through restrictions in upriver fisheries if needed to achieve escapement goals. That is, information provided by a 3-day harvest report would still lag 2-3 weeks behind the sonar counts and would only provide in effect post-season information. With no added conservation benefit, a large administrative and enforcement burden would be placed onto the federal agencies and federal subsistence users who would be unnecessarily inconvenienced by having to report within a 3-day window.

Impact on Subsistence Users: Add the burden of reporting harvest within 3 days either online or some other method yet unknown.

Impact on Other Users: None at this time.

Opportunity Provided by State:

5 AAC 01.015 Subsistence fishing permits and reports

(c) If the return of catch information necessary for management and conservation purposes is required by a subsistence fishing permit, a permittee who fails to comply with such reporting requirements is ineligible to receive a subsistence permit for that activity during the following calendar year, unless the permit applicant demonstrates to the department that failure to report was due to loss in the mail, accident, sickness or other unavoidable circumstances.

Conservation Issues: This proposal will have no impact on conservation of any salmon species in the Copper River.

Enforcement Issues: There would be an increased burden on federal enforcement personnel in order to deal with this new requirement. Currently under State regulations state subsistence and personal use permit holders must log their harvest on their permits immediately before leaving the fishing site or concealing the fish from view. Alaska Wildlife Troopers can cite permit holders for non-compliance during regular patrols in the fishery. Enforcement for noncompliance with online reporting can only be undertaken at the end of the season. It has been found that enforcement of daily reporting requirements creates incentives to manipulate harvest data to comply with reporting rather than reflect accurately when fish were harvested.

Recommendation: ADF&G **OPPOSES** mandatory daily reporting because it is unnecessary for the management of these fisheries, places an additional burden on users, would be challenging to enforce and creates inconsistencies between State and Federal regulations.

WRITTEN PUBLIC COMMENTS



Ahtna Intertribal Resource Commission

dba/Copper River-Ahtna Inter-Tribal
Resource Conservation District
PO Box 613
Glennallen, Alaska 99588
907-822-4466
connect@ahtnatribal.org

July 2, 2020

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

Dear Federal Subsistence Board Members,

In 2011, after many years of preparation, a group of Ahtna leaders formed the Ahtna Intertribal Resource Commission (AITRC) to address the compelling need for tribal stewardship of our traditional fish, wildlife and plant resources that have been degraded by nearly three centuries of impact and competition. Because of AITRC's focus on developing fish and wildlife management programs for Ahtna traditional lands, our efforts are contributing to enhanced food security and food sovereignty for residents of the Copper Basin. The subsistence fisheries on the upper Copper River play an important role in the food security of most Ahtna tribal members, as well as in that of other federally-qualified subsistence users.

Toward its goal of supporting the continued availability of salmon for customary and traditional uses, AITRC would like to offer comments on the following proposals:

FP 21-11

AITRC supports FP 21-11. Based on our ongoing research and participation in the fisheries regulatory and management processes, we feel strongly that there is a need for more timely harvest data in the upriver subsistence and personal-use fisheries. Moreover, this is a topic about which we have found broad consensus among both tribal and non-tribal federally-qualified subsistence fishers within the region.

As part of its ongoing social science research through a Partners for Fisheries Management Program (PFMP) grant from the US Fish and Wildlife Service, AITRC has used participatory, ethnographic methods to document management, regulatory and conservation concerns in Copper River fisheries. Concern about the health of salmon stocks has been a common theme emerging from both subsistence fishers and some biologists who have participated in this research, as has anxieties about their future availability for customary and traditional uses. These concerns are accentuated by recent events such as historically low sockeye abundance in 2018 and 2020, and clear trends of decline in Chinook abundance.

Although biologists do not know the reasons for these declines, many enrollees in AITRC's member tribes have expressed strong concern about steadily increasing harvest levels in upriver subsistence and personal-use fisheries. Many of these concerns have been specifically directed toward the state fisheries, but gaining an accurate picture of in-season harvest levels would be best accomplished if in-season reporting were applied universally across all state and federal

Tsin'aen

subsistence and personal-use fisheries. Companion proposals submitted to the State Board of Fisheries address the state-managed fisheries.

While this proposal would require more frequent reporting, it would not require federally-qualified subsistence users to report any more data on their harvests than is required currently. Federal subsistence users must already track their daily harvest levels, by species, and report these totals at the end of each season. If this reporting were done using an online app, it would not require any more effort than is required under the current system.

Timely reporting would probably produce better-quality data than does end-of-season reporting. A common problem with the current system is that subsistence fishers often fail to keep their permits up-to-date, waiting to fill them out till the end of the year when they are due, and guessing about their daily catch totals. During years of low abundance, these data could provide more granular data on the fishery, enabling more adaptive management decision-making. They also might help to build trust and consensus between fisheries management and an interested local public.

FP 21-12

AITRC is in support of proposal FP 21-12, which would ban monofilament-type dipnets between June 1st and August 15th. While Chinook salmon run sizes have fluctuated, they have shown a clear trend of decline during the past 20 years (Savereide et al. 2018). Biologists are investigating the reasons for these declines; multiple factors are likely implicated in these changes, including changing ocean conditions. Even so, simple in-river conservation measures would help to maximize the survival rates of Chinook salmon during spawning migration, while still maintaining in-river harvest opportunities.

Both dipnets constructed with inelastic seine-style mesh, and the traditional Ahtna style made with inelastic mesh, are effective at catching salmon. Inelastic, seine-style nets are widely available and are no more expensive than monofilament-type nets. This proposal would not reduce opportunity, and would have no effect on the number of Chinook salmon federally-qualified dip net fishers would be allowed to retain each year.

This proposal would promote greater survival rates among Chinook salmon caught in nets and then released back into the river. These releases occur frequently with Chinook salmon, both when dip net fishers have exceeded their seasonal limits, and when fishers voluntarily release Chinooks due to conservation concerns. Salmon are far more likely to become severely entangled in monofilament/multifilament nets than in nets with inelastic bags. As the same kind of mesh material used in gillnets, monofilament nets are designed to catch fish on the jaws, gill-plates, fins and other protruding areas of the fish, as well as to stretch and become tightly girdled around their abdomens. These entanglements can cause direct injuries to the salmon (e.g. split tail-fins, broken gill-plates, abrasion), and at the very least, it can make untangling salmon from these nets a far longer and more difficult process, especially for inexperienced fishers. Longer time out of the water leads to increased stress and greater likelihood of mortality. Inelastic-type dipnets, on the other hand, are far more likely to merely enclose the salmon without causing excessive entanglement or injury.

One slight modification to this resolution should be considered: as it is currently worded, this resolution could be interpreted as prohibiting the rigid dipnets that are customary traditional to

Ahtna fishers (commonly made of chicken-wire nowadays). Because of their rigidity, these traditional-type nets do not cause entanglement. Accordingly, the resolution should contain language specifically allowing these, such as by removing the word “braided” from the proposed regulation:

“You may not use a dipnet that is rigged with monofilament or multifilament mesh before August 15th (when the majority of the Chinook run has passed into the upper Copper River). Before this time, your dipnet must be rigged with ~~braided~~, inelastic mesh.”

FP 21-13

AITRC strongly supports proposal FP 21-13, which would ban dipnetting from boats. We feel that the dramatic increase in this method’s popularity (Botz and Somerville 2017) poses significant conservation concerns.

Salmon often delay their upriver migration during high water events, resting in deep parts of the river and/or areas such as eddies where the current is less intense. During these times, catch per unit effort for fish wheels and onshore dipnetters tends to be quite low. However, dipnetters in boats are able to move throughout the river and target these resting areas. On the middle Copper River (i.e. Chitina – Gulkana), subsistence fishers have observed that when the water begins to recede, large pulses of fish have often followed bringing very good fishing during the following days. During the past several years, local/traditional knowledge observations suggest that these pulses of fish have not been occurring in the same way. Although research into this topic is warranted, a very likely explanation for this change is that boat-based dip netters are catching much of the fish that are resting in these deep pockets.

AITRC’s PFMP research and activities have shown that there is significant opposition to the practice among Copper Basin locals. For one longtime subsistence fisher and Ahtna elder, made the following observations during our 2019 interview with him:

[...] Not only do they get ‘em from the shore and now they’re getting ‘em in the middle of the river. And they’re using boats to do it. And the boats are just like, you’re moving. You’re not like you’re standing still waiting for the fish to come to you—you’re going down the river getting ‘em as they’re coming up. And all you’re doing is hanging the net out the w—out the way, but. Not really a work—just to sit there and float and hang onto a net. And then and—and then, they’re right down the middle of the river so right-right outside the fishwheel.

As this elder points out, the mobility of boat dipnetters gives them a competitive advantage over both fishwheel users and dipnetters who fish from shore. Both fishwheel fishers and onshore dipnetters have reported disruptive encroachment by parties that are dipnetting from boats. Because fishwheels are large and stationary, they have no way of avoiding dipnetters from boats who are inconsiderate and come too close. This can also be an issue for dipnetters who are fishing from shore, as onshore fishing sites are limited in some parts of the river.

Dip netting salmon from boats is not a customary or traditional use of the resource. In traditional times, Ahtna fishers dipnetted from shore or from platforms that extended into the river (Simeone and Valentine 2007), but did not dipnet from boats floating in the river. Even among non-native settlers, dip netting from boats does not have a long enough history to be considered a

customary or traditional use of the resource. Rather, this is a practice that has only become widespread during the past one or two decades. Although this is not, specifically, a difference in the equipment used to harvest salmon, it represents a dramatic change in the way in which the fishery is prosecuted. Boats can confer a competitive advantage over fishers who fish from shore, as noted above, but they are expensive to own and operate, and are thus not available to many federally-qualified subsistence fishers.

FP 21-14

AITRC supports FP 21-14, which would ban fish finders from boats that are fishing on the Copper River. Obviously, if FP 21-13 is approved, this proposal will not be necessary. However, if FP 21-13 is voted down, the board should at least the use of devices that enable boat-based fishers to target schools of fish. This targeting contributes to the likely overfishing of salmon during high-water events, as mentioned above.

Fish finders are a technology that is in no way customary or traditional to any of the fisheries on the upper Copper River. This proposed regulatory change would be unlikely to have negative impacts on many federally-qualified subsistence users, as most experienced locals already know where to find schools of fish, anyway. Restricting fish-finders would merely encourage inexperienced fishers to develop the knowledge and experience that are requisite for fishing on a swift, dangerous river such as the Copper.

Along these lines, we have previously heard the objection to banning fish finders; that they are needed to watch for rocks and sandbars on the Copper River. We are somewhat skeptical of this explanation, as the Copper is a swiftly-flowing river, and most fish finders are not reliable for spotting rocks or other objects in time to avoid them. Learning to read river conditions (i.e. through direct observation) is by far the safest and most reliable way of avoiding these hazards. Again, fishers who depend on fish-finders to avoid running aground may lack the necessary experience to safely fish on a dangerous river like the Copper. Rather than increasing safety for these inexperienced fishers, overreliance on these devices diverts their attention away from actually observing the river.

Thank you for the opportunity to comment on these proposals.

Tsin'aen,


Karen Linnell
Executive Director

References:

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Fw: [EXTERNAL] comments on copper river proposals

From: michael mahoney <mjmahoney22@hotmail.com>
Sent: Thursday, July 2, 2020 12:33 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] comments on copper river proposals

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Thank you for the opportunity to comment.

FP 21-10

Given the concerns that biologists, managers and stakeholders have with the king and sockeye salmon abundance on the copper river, I don't think that it would be a good idea to open up a new fishery on the lower copper river in order to target these fish (especially Kings). Therefore, I am opposed to it. Cordova residents have ample opportunity to harvest salmon resources in the area. One excellent king salmon harvest opportunity, which is utilized by many residents is the remote release site at fleming spit.

FP 21-11

I cannot think of any downside to this proposal. I support it. With modern communication options, there is no reason why this timely reporting would be too burdensome to the user. Good in-season management requires current data, and this is the only way for that to happen. It is time to give our managers the tools they need to protect this fishery.

FP 21-12, 13, 14

I think that all of these changes would be helpful in protecting our King salmon and I support them. All of these practices are not customary and traditional, and have resulted in a much higher efficiency levels of harvest. With the use of boats, and sonar equipment in particular, there is a corresponding profit motive from the guide services who profit from this.

Sincerely,
Mike Mahoney
PO Box 2416
Cordova, AK 99574

Fw: [EXTERNAL] Prince William Sound proposals

From: Thea Thomas <thea@ctcak.net>
Sent: Thursday, July 2, 2020 7:19 AM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Prince William Sound proposals

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

Dear Mr. Matuskowitz,

I am a 40 year resident of Cordova, Alaska and a commercial fisherman. Over the years, i have served on several boards and presentedly am on the board of the Copper River/Prince William Sound Marketing Association and the Prince William Sound Science Center.

I am strongly opposed to proposal FP21-10. Subsistence users have more than adequate opportunity through the State of Alaska subsistence openers which occur 3 days a week, and the federal subsistence opportunity on the Eyak River.

I strongly support proposal FP21-11, FP21-12, FP21-13 and FP21-14. These proposals are important to limit over harvest in the Chitina dipnet fishery and to acquire timely data on the harvest.

Thank you

Thea Thomas
PO BOX 1566
Cordova, AK 99574
907 424 5266

June 29, 2020

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

Mr. Matuskowitz:

Enclosed are Ahtna Tene Nene' comments on 2021-2023 Federal Fisheries proposals. Please record them as public comments for Southcentral Subsistence Regional Advisory Council's and Eastern Subsistence Regional Advisory's recommendation, and to the Federal Subsistence Board for final decision making and action.

Sincerely,

David Stickwan
for
John Dye
Mr. John Dye,
Vice Chair

Page 1 of 12

FP21-11

1. Kirk Wilson
Hco1 box 1960
Glennallen, AK 99558
907.320.1016
kirkakfish@yahoo.com

2. What regulations you wish to change. Include management unit number and species. Quote the current regulation if known. If you are proposing a new regulation, please state, "new regulation."

50 CFR 100.27(11) - New regulation

3. How should the regulation read? Write the regulation the way you would like to see it written in the regulations.

You must record your daily harvest and report them to the agency that issued your permit within three (3) days of when those harvests occur. You must report harvest attempts for any days during which their fishing gear was in the water, even if you did not catch any fish.

Harvest reports can be made using an online app or a call-in number.

4. Why should this regulation change be made?

Copper River fisheries managers currently rely on an abundance-based management model that does not collect in-season harvest data and has very little empirical data about actual escapement onto the spawning grounds. This model assumes that escapement can be accurately estimated using on abundance at the Miles Lake sonar and harvests from previous years. However, recent events suggest that the in-river harvest exceeds what can be biologically sustained and is not detected by our current harvest reporting system. The Gulkana hatchery has not been able to obtain its brood stock since 2015, while the 2018 sockeye run failure caught managers by surprise. Due to the McDowell decision, every Alaska resident household is eligible to participate in Copper River subsistence fisheries, and to catch up to 500 fish per year. Obtaining accurate in-season harvest information would help to protect against the possibility of overharvest due to variable harvest levels and underreporting post-season. Recording daily harvests is already required on the Copper River for all fisheries except sport. In-season reporting would be relatively simple and could be done using an online app.

5. You should provide any additional information that you believe will help the Federal Subsistence Board in evaluating the proposed change.

Comments:

We support with modification FP21-11 to have it optional to have Federally Qualified Subsistence Users to report fish harvest within 3 days to a federal agency.

Federally Qualified Subsistence Users should not be required to report within 3 days or be burdened with unnecessary regulations. A few Ahtna people and other Federally Qualified Subsistence Users may not have cell phone to report fisheries on an app.

Additionally, Wrangell St. Elias National Park & Preserve will have an extra cost for an employee to monitor online fisheries reports.

Federal qualified subsistence users are not harvesting the bulk of sockeyes and chinook in the Copper River. They shouldn't have to report within 3 days. Their harvest of salmon is low compared to other users such as under State Personal Use Fisheries and Commercial Fisheries.

A fisheries biologist from Wrangell St. Elias National Park & Preserve emailed to me the following: “

From our records of Federal harvest and the State harvest figures provided by ADFG, the 2009-2018, 10 year averages are: Federal subsistence harvest of Sockeye Salmon was 2% of all Copper River harvest (including all state commercial, subsistence, personal use, and sport fisheries) and 9% of all upriver fisheries (including all State subsistence, personal use, and sport fisheries).

Federal subsistence harvest of Chinook Salmon was 4% of all Copper River harvest and 12% of all upriver fisheries.

Bonnie Yazzie
PO Box 67
Chitina, AK 99566

July 2, 2020

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

To the board:

I am from an Ahtna family who has depended on Copper River salmon since time immemorial. Although I lived away from the region for a long time until fairly recently, we still received salmon every year from our relatives. I work for Native Village of Chitina as an Office/Accounting Assistant, and serve as Secretary/Treasurer on the Ahtna Intertribal Resource Commission Board of Directors.

FP 21-11: support. I think that we need to know exactly what's being taken in order to accurately manage the fishery. This would help keep people more honest and in-check. In some of the Kenai Peninsula clam fisheries, they have checkpoints to check people's permits and see how many clams people have dug. It helps keep people honest. But when dipnetters come here to Chitina there's no check-point. We have more than 10,000 people come through here each year and nobody is monitoring. The very least we can do is require in-season reporting.

I also support FP 21-12, to ban monofilament dipnets during king season.

FP 21-13: support. Dipnetting from a boat is not a customary or traditional way of getting salmon. They didn't do it back in the early 1900s. Back then, we actually made our own dipnets out of alder. We didn't get on boats and dipnet for salmon. The people nowadays who are dip netting from boats are getting all their salmon easy. They come down by the thousands and all dipnet at the same time, and the people who live up the river are not getting their salmon. Last year was a good example. Managers opened the dipnetting in June and hardly anybody got salmon in their fishwheels after that. To me it's taking unfair advantage of the resource. They're not dipnetting; they're trawling. They're just holding their dipnets in the water and drifting down the stream and throwing the fish in their boats. I've heard of dipnetters in boats limiting out this year, while many of us with fishwheels are struggling.

FP 21-14: support. In the past, boaters with fish-finders have used the excuse that they need the fish-finders to navigate the river channel. These fishers need to learn the river channel. Using fish-finders to find salmon is taking unfair advantage, once again.

Thank you for your consideration.

Sincerely,



Bonnie Yazzie

FP21-12 Executive Summary	
General Description	Proposal FP21-12 requests the Board prohibit the use of monofilament and multifilament mesh dip nets before August 15 in the Upper Copper River District. <i>Submitted by: Kirk Wilson.</i>
Proposed Regulation	<p>§____.27(e)(11) <i>Prince William Sound Area</i></p> <p><i>(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:</i></p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(H) You may not use a dip net that is rigged with monofilament or multifilament mesh before August 15th. Before this time, your dip net must be rigged with braided, inelastic mesh.</i></p>
OSM Conclusion	Oppose
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	Oppose
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	Oppose
Interagency Staff Committee Comments	The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.
ADF&G Comments	Oppose
Written Public Comments	5 Support

STAFF ANALYSIS
FP21-12

ISSUES

Proposal FP21-12, submitted by Kirk Wilson of Glennallen, requests that the Federal Subsistence Board (Board) prohibit the use of monofilament and multifilament mesh dip nets before August 15 in the Upper Copper River District. Before this time, dip net rigging would be limited to braided, inelastic mesh.

DISCUSSION

The proponent states that prohibiting dip nets rigged with monofilament or multifilament mesh before August 15 will prevent injury to Chinook Salmon. He notes that recent Copper River abundance and escapement estimates have raised concern about the drainage-wide health of Chinook Salmon populations. The proponent voices concerns about the use of dip nets with monofilament or multifilament mesh (i.e. gillnet material) in terms of its effect on survival rates of Chinook Salmon that are caught and then released. Compared with braided inelastic mesh nets (i.e. seine, style), salmon tend to become far more entangled in monofilament-type nets. It can take as long as ten minutes to untangle and release a salmon from such a net. The proponent states that salmon experience stress and increased mortality rates in proportion to the length of time they are out of the water. Additionally, the proponent observes that entanglement frequently cause injuries such as split tail-fins, which further increases their mortality.

Existing Federal Regulation

§ ____ .27(e)(11) Prince William Sound Area

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

Proposed Federal Regulation

§ ____ .27(e)(11) Prince William Sound Area

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

(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:

(H) You may not use a dip net that is rigged with monofilament or multifilament mesh before August 15th. Before this time, your dip net must be rigged with braided, inelastic mesh.

Existing State Regulation

5 AAC 01.620 Subsistence Finfish Fishery—Prince William Sound Area-- Lawful gear and gear specifications

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

(b) Salmon may be taken only by the following types of gear:

(1) In the Glennallen Subdistrict by fish wheels or dip nets;

5 AAC 77.591. Personal Use Fishery—Prince William Sound Area—Copper River Personal Use Dip Net Salmon Fishery Management Plan

(c) Salmon may be taken only with dip nets.

5 AAC 39.105. Types of legal gear

(a) All gear shall be operated in a manner conforming to its basic design.

(c) All references to mesh size in the regulations are considered to be "stretched measure."

(d) Unless otherwise provided in this title, the following are legal types of gear:

(24) a dip net is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand;

Relevant Federal Regulations

§ __.25(a) Definitions

Dip net means a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through

the net opening, may not exceed 5 feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Gillnet means a net primarily designed to catch fish by entanglement in a mesh that consists of a single sheet of webbing...

§____.27(b) Methods, means, and general restrictions

(3) For subsistence fishing for salmon...the gillnet web must contain at least 30 filaments of equal diameter or at least 6 filaments, each of which must be at least 0.20 millimeter in diameter.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters comprise those waters within and adjacent to the exterior boundaries of Wrangell-St. Elias National Park and Preserve (**Figure 1**).

The Upper Copper River District is comprised of the Chitina Subdistrict and the Glennallen Subdistrict. The subdistricts are geographically defined in the same way in Federal and State regulations. The Chitina Subdistrict consists of all waters of the mainstem Copper River downstream of the downstream edge of the Chitina-McCarthy Road Bridge to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek, as designated by Alaska Department of Fish and Game (ADF&G) regulatory markers, a distance of approximately ten miles. The Glennallen Subdistrict consists of all waters of the mainstem Copper River from the mouth of the Slana River downstream to the downstream edge of the Chitina-McCarthy Road Bridge, a distance of approximately 120 miles.

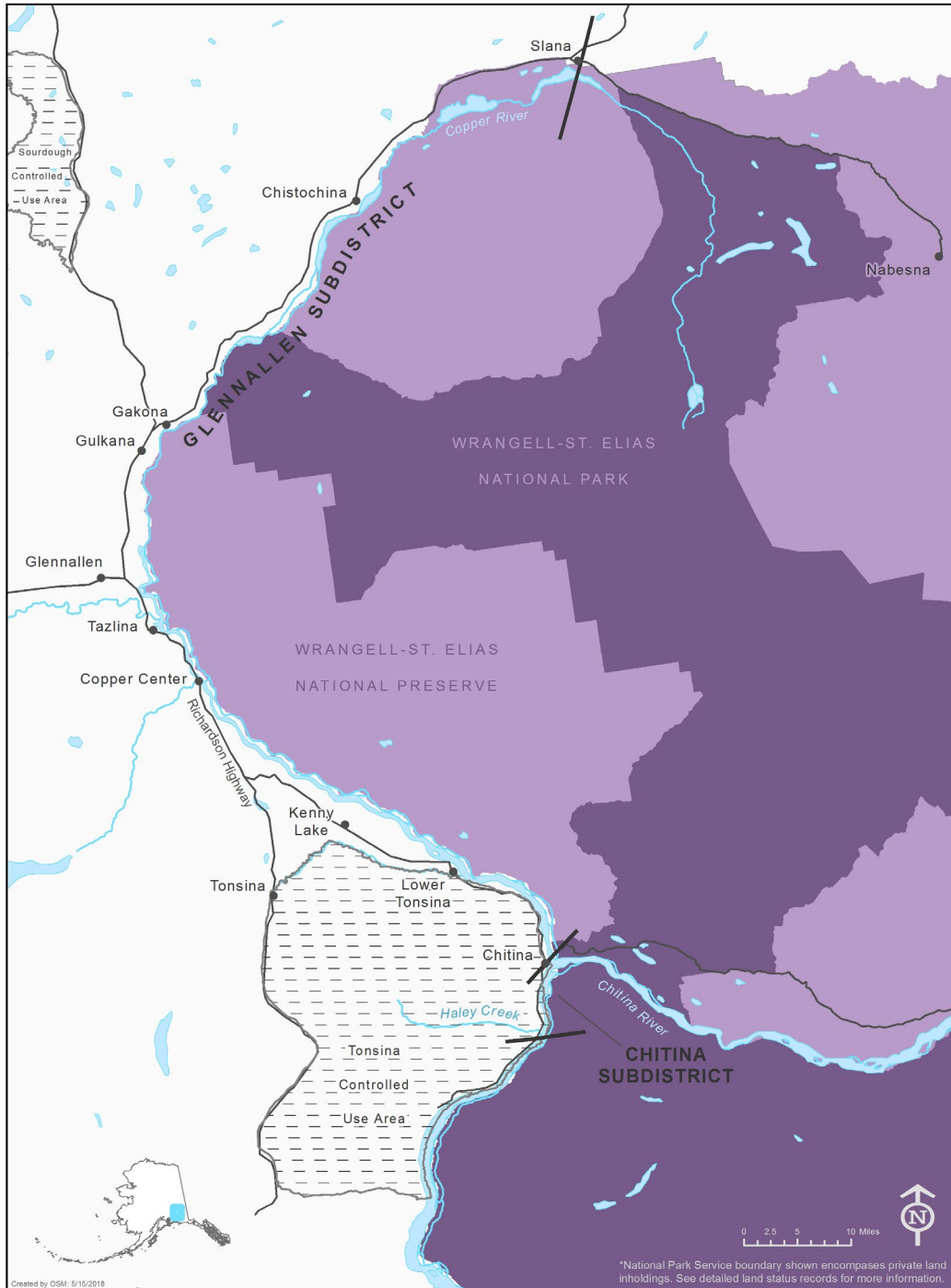


Figure 1: Upper Copper River drainage, showing the exterior boundary of Wrangell-St. Elias National Park and Preserve as well as the Chitina and Glennallen Subdistricts of the Upper Copper River District.

Customary and Traditional Use Determinations

Glennallen Subdistrict

Rural residents of the Prince William Sound Area and residents of Cantwell, Chickaloon, Chisana, Dot Lake, Dry Creek, Healy Lake, Northway, Tanacross, Tetlin, Tok, and those individuals living along the Alaska Highway from the Alaskan/Canadian border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road have a customary and traditional use determination for salmon in the Glennallen Subdistrict of the Upper Copper River District.

Chitina Subdistrict

Rural residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road have a customary and traditional use determination for salmon in the Chitina Subdistrict.

Regulatory History

In 1999, regulations were adopted by the Board when promulgating the initial Federal regulations for fish in *navigable* waters; residents of the Prince William Sound Area were initially listed as having customary and traditional use of salmon in the Glennallen Subdistrict (64 Fed. Reg. 5. 1276-1313 [January 8, 1999]). In 2001, the Board adopted Proposal FP01-15, which established a customary and traditional use determination for salmon in the Chitina Subdistrict. The same year, the Board also adopted a modified version of Proposal FP01-16, submitted by the Copper River Native Association, which defined seasonal harvest limits as requested, and created a Federal subsistence fishing season from May 15 to September 30.

In 2002, the Board adopted Proposal FP02-17, submitted by Wrangell-St. Elias National Park Subsistence Resource Commission, requesting changes to regulations in addition to a review of eligible subsistence fishers for the Upper Copper River district. The proposal was split into two proposals; Proposal FP02-17a added communities to the customary and traditional use determinations for the Glennallen and Chitina Subdistricts. Proposal FP02-17b allowed those with customary and traditional use determination to obtain a permit for each subdistrict in the same year. Additionally, FP02-17b ensured that combined harvests from both subdistricts would not exceed the harvest limit set for the Glennallen Subdistrict, and allowed for multiple gear types to be specified on each permit. In 2002, the Board created a Federal permit requirement for the Upper Copper River District administered by the National Park Service.

In 2006, the Board took no action on Proposal FP06-20, which was submitted by the Ahtna Tene Nene' Subsistence Committee and requested that fish wheels in the Upper Copper River District be equipped with a live box unless checked every 4 hours. The Southcentral Alaska Subsistence Regional

Advisory Council opposed this proposal, and the Eastern Interior Alaska Subsistence Regional Advisory Council recommended no action. The same year, the Board considered Proposal FP06-21, submitted by Ahtna Tene Nene' Subsistence Committee, requesting that fish wheels in the Upper Copper River District be checked and all fish removed every 24 hours. The Southcentral Alaska Regional Advisory Council supported the proposal with modification to require that fish wheels in the Upper Copper River District be checked at least every 48 hours and all fish removed. The Eastern Interior Alaska Subsistence Regional Advisory Council opposed the proposal. The Board adopted Proposal FP06-21 with modification to require fish wheel operators to check their fish wheels every 10 hours.

That year the Board also considered Proposal FP06-22, submitted by the Ahtna Tene Nene' Subsistence Committee, which requested that fyke nets be allowed to harvest up to 1,000 salmon in Tanada Creek upstream of the weir and that incidental harvests of other fish be allowed. The Board adopted this proposal with modification recommended by the Southcentral Alaska Regional Advisory Council to limit use to only one fyke net after consultation with in-season manager, to require that the subsistence user be present during use, and to ensure that Chinook Salmon incidentally caught be released unharmed.

In 2007, the Board considered and rejected Proposal FP07-14, which was submitted by Cris Grimwood of Cordova. This proposal requested a three month opening in the lower Copper River using dip net or rod and reel with eggs. It was opposed by the Southcentral Alaska Subsistence Regional Advisory Council. The same cycle, the Board considered and rejected Proposal FP07-15, submitted by the Ahtna Tene Nene' Subsistence Committee, which would have required that fish wheels be removed to above the high water mark at the end of the season. Both the Southcentral Alaska and the Eastern Interior Alaska Subsistence Regional Advisory Councils opposed this proposal. Finally, in 2007 the Board considered and rejected FP07-16, submitted by the Ahtna Tene Nene' Subsistence Committee, which would have required that fish wheels be at least 200 feet apart. The Southcentral Alaska Regional Advisory Council opposed the proposal, and the Eastern Interior Alaska Regional Advisory Council deferred to the home region.

In 2019 the Board adopted Proposals FP19-15 and FP19-16, both of which were submitted by Wrangell-St. Elias National Park and Preserve. Proposal FP19-15 requested that requirements to check fish wheels on the Upper Copper River be transferred from the wheel owner to the operator. Proposal FP19-16 clarified regulatory language, changing specifications for permits so that one unit of gear *per person* could be operated at one time, rather than one unit of gear at one time. The Southcentral Alaska and the Eastern Interior Alaska Subsistence Regional Advisory Councils both supported these proposals.

Currently, Federal Regulations for the Upper Copper River District (Glennallen and Chitina Subdistricts) require users to have a subsistence fishing permit and allow the use of fish wheel, dip net, and rod and reel gear for the take of salmon. The Federal fishing season for salmon in the Upper Copper River District is from May 15 through September 30. Households of Federally qualified subsistence users who have a customary and traditional use determination in both subdistricts may be issued one permit for each in any given year. Regardless of size of household, the harvest limit for Chinook by dip net is 5 fish; after reaching this limit, users fishing under a Federal subsistence permit must return Chinook Salmon to the water.

State regulations only allow subsistence fishing in the Glennallen Subdistrict. The Chitina Subdistrict is designated as a personal use fishery. Under State regulations, permits can only be issued for either the Glennallen Subdistrict subsistence salmon fishery or the Chitina Subdistrict personal use salmon fishery in the same year, but not both. Fish wheels or dip nets are allowed in the Glennallen Subdistrict but not both in the same year, and only dip nets are allowed in the Chitina Subdistrict under State regulation. As under Federal regulations, the harvest limit for Chinook by dip net is 5 fish under State subsistence regulations. One only Chinook may be retained in the Chitina personal use fishery. After reaching these limits, users fishing under a state permits must return Chinook to the water.

Current events

In 2017, the Board of Fisheries rejected Proposal 15 for the Prince William Sound Area, submitted by the Wrangell St.-Elias National Park Subsistence Resource Commission (SRC). This proposal would have prohibited the use of monofilament or gillnet mesh in dip nets in subsistence and personal use fisheries of the Upper Copper River District. In the rationale for their proposal, the SRC stated that “the use of monofilament or gill net mesh material in dip nets entangles the fish, making it more difficult to release them, and causing an increased level of harm to Chinook Salmon intended for release. Being able to release Chinook Salmon unharmed is particularly a concern when Chinook Salmon abundance is low” (Alaska Board of Fisheries 2017a: 15).

Although the proposal was rejected, debate on the State proposal is relevant to the current analysis. Opponents of the proposal noted that the majority of dip netters in the Chitina personal use fishery have switched to multi-strand gillnet material because it is more efficient. Overall, participants in the debate noted disagreement and a lack of data on how many Chinook Salmon become stuck in nets and the effects of extracting them from gillnet material on their subsequent survival.

The proposal was rejected because it “would create an exception to the state-wide regulation for the Prince William Sound Area. It is unlikely to increase survival of released king [Chinook Salmon]... since tangling in mesh is more a function of the net depth and size rather than material. Subsistence and personal use fishermen would require more time to catch the same number of fish. Gillnet material is widely available, and many people would have to replace their current nets...[and] it would create further diversion between Federal and State regulations in the same area” (Alaska Board of Fisheries 2017b: np).

In subsistence study interviews, residents of rural Copper River Basin communities have expressed concerns about Chinook Salmon runs. In subsistence study interviews conducted for 2013, Tazlina residents said that Chinook Salmon harvests were down significantly compared to what long-term residents remembered in the past, which they attributed to a range of factors, including environmental change. Residents were proactively working to preserve Chinook Salmon runs: "Out of concern for the stock, many respondents mentioned trying to remove Chinook Salmon from the boxes of the fish wheels if it seemed like there was a chance the fish would survive. Almost all harvests of Chinook Salmon by Tazlina residents were incidental and caught in fish wheels in operation for Sockeye Salmon; people made efforts to avoid harvesting Chinook Salmon" (Holen et al. 2015: 288).

Two proposals similar to the one being considered in this analysis were submitted to the State in 2020, and will be considered at the March 2021 Alaska Board of Fisheries meeting along with other proposals for the Prince William Sound. These proposals were submitted by Kirk Wilson and the Copper Basin Fish and Game Advisory Committee, and would prohibit the use of monofilament and multifilament gill net mesh in dip nets on the Copper River before August 15 or year-round, respectively.

2020 Fishery Update

The 2020 Copper River salmon passage was much weaker than expected with a cumulative Miles Lake Sonar estimate of 530,313 fish on July 29th, the last day of operation (ADF&G 2020e). The cumulative passage estimate lagged behind the management object of 628,553 fish. Closures of both the commercial gillnet fishery at the mouth of the river and the Chitna Subdistrict personal use salmon dip net fishery were required to provide more fish towards the escapement (ADF&G 2020b, ADF&G 2020c).

Cultural Knowledge and Traditional Practices

Ahtna Athabascan people have harvested Sockeye, Chinook, and Coho Salmon in the Copper River Basin for at least 1,000 years (Workman 1976). The presence of Upper Tanana Athabaskans fishing in the Upper Copper River was noted in 1885, and long-term kinship and trading ties between the Ahtna and Upper-Tanana have been documented (Haynes et al. 1984). Sockeye Salmon are the most important species used in the area, followed by Chinook Salmon.

The Ahtna traveled to seasonal camps throughout their territory based upon resource availability. Fish camps were located on the Copper River and several major tributaries (De Laguna and McClellan 1981). Early June and July were the preferred time for fishing Sockeye Salmon runs headed for streams and lakes in the Upper Copper River, as this was the best time for making *ba'*, or dried fish (Simeone and Kari 2002).

There are eight contemporary Ahtna villages, (Mentasta Lake, Chistochina, Gakona, Gulkana, Tazlina, Copper Center, Chitina, and Cantwell) almost all of which are located near traditional fishing camps. Other communities situated on or near the banks of the Copper River include Slana, Gakona Junction, Nabesna, Willow Creek, Kenny Lake, and Tonsina. Salmon remain vital to the subsistence way of life for those living in the Upper Copper River Basin (Reckord 1983, Brady et al. 2013). In comprehensive subsistence surveys conducted by ADF&G, it has been shown that salmon comprise a majority of the annual harvest in most communities along the Copper River drainage (La Vine and Zimpelman 2014). Salmon made up 78% of the overall subsistence harvest in edible weight in Chitina in 2012, 68% of the overall subsistence harvest in Tazlina in 2013, and 66% of the subsistence harvest in Kenny Lake in 2012 (**Table 1**).

Table 1: Salmon harvest select communities with C&T for salmon in the Upper Copper River (ADF&G 2020d).

Community	Survey year	Pounds of salmon per capita	Percentage of overall harvest comprised of salmon
Chitina	2012	191.59	78%
Tazlina	2013	102.14	68%
Kenny Lake	2012	93.61	66%
Gulkana	2012	91.69	64%
Copper Center	2010	129.25	61%
Chistochina	2009	94.22	58%
Glennallen	2013	56.97	58%
Gakona	2012	95.94	56%
McCarthy	2012	45.78	53%
Tonsina	2013	101.76	51%
Slana	2010	95.74	47%
Dot Lake	2011	44.16	37%
Mentasta Lake	2010	43.46	29%
Tok	2011	51.32	25%
Cantwell	2012	15.18	15%
Northway	2014	40.81	13%
Dry Creek	2010	17.23	12%

Ahtna fishing technology adapted to local conditions and salmon behavior. The traditional Ahtna/Upper Tanana methods of harvesting salmon included basket dip nets (*ciisi*), platform fish weirs, funnel-shaped basket traps, and salmon spears or harpoons; fish wheels were introduced in the early 1900s, after which they became very popular and replaced some earlier fishing technologies (De Laguna and McClellan 1981).

The Ahtna dip net basket was funnel-shaped and made out of rigid spruce roots. It had a top at the end of the net to catch the salmon's head, and attached to a pole nine to ten feet long. The Upper Copper River is filled with glacial silt, and fish cannot be seen as they travel through the river. The rigid basket design was ideally suited to these fast, murky conditions, and is unique to the area (Simeone and Kari 2002). Although usually used to catch Sockeye Salmon, the Ahtna dip net could also be used to catch Chinook Salmon; however, doing so could cause the net to break or the fisher to be pulled into the water.

Today, dip nets are used with either one of two kinds of mesh: (1) a gillnet-like material that traps fish that enter the basket, or (2) a regular net that does not. Dip nets rigged with gillnet material result in fewer lost fish from the net; however, they can be difficult to handle once filled with fish, and fish

must be disentangled, which is time-consuming. Standard dip net mesh does not trap salmon in the net itself, and thus may be easier to handle, but less efficient.

Fish wheels are the predominant gear used by communities in the Upper Copper River Basin. For example, in 2013, Glennallen residents harvested 88% of their salmon (in edible weight) by fish wheel. Gulkana residents took 91% of their salmon harvest by fish wheel, and Tazlina residents took 88% of their salmon harvest by fish wheel (Holen et al. 2015). In contrast, the percent of the salmon harvest taken by dip nets for these communities was quite low, at 3.4% for Glennallen, 2% for Gulkana, and 3% for Tazlina (Holen et al. 2015). Flooding and high water levels have created challenges to installing, maintaining, and accessing fish wheels in recent years (Holen et al. 2015). The Upper Copper River District is easily accessible via the Richardson and Glenn Highways, and competition for resources is a main concern for local residents (Holen et al. 2015).

Biological Background and Harvest History

The Copper River supports multiple runs of salmon, but Sockeye Salmon (*Oncorhynchus nerka*) and Chinook Salmon (*Oncorhynchus tshawytscha*) are the two species primarily targeted in the Federal subsistence fisheries. Federally qualified subsistence users are restricted to three areas of the upper Copper River: the Chitina and Glennallen Subdistricts and the Batzulnetas area. Sockeye Salmon is the most abundant species, and is the main fish targeted by all user groups in both the Chitina and Glennallen Subdistricts. The 2019 estimated subsistence salmon harvest by Federally qualified subsistence users in the Glennallen Subdistrict was 15,873 Sockeye Salmon and 949 Chinook Salmon. The Sockeye Salmon harvest was below the 10-year average of 16,635 fish, while the Chinook Salmon harvest was above the 10-year average of 730 fish (**Table 2**). A smaller number of salmon are harvested by Federally qualified subsistence users in the Chitina Subdistrict. The 2019 estimated subsistence salmon harvest by Federally qualified subsistence user in the Chitina Subdistrict was 4,451 Sockeye Salmon and 83 Chinook Salmon. Both Sockeye and Chinook Salmon harvests were above the 10-year average of 2,376 Sockeye Salmon and 31 Chinook Salmon (**Table 3**).

Salmon are harvested in the State subsistence fishery in the Glennallen Subdistrict in greater numbers than Federal subsistence harvest. The estimated subsistence salmon harvest by State salmon dip net and fish wheel permit holders in the Glennallen Subdistrict within the last 10-years (2010-2019) averaged 64,320 Sockeye Salmon and 2,569 Chinook Salmon (**Table 4**). Additionally, salmon are harvested from the Chitina Subdistrict personal use dip net fishery with a 10-years average harvest of 148,458 Sockeye salmon and 1,193 Chinook Salmon (**Table 5**).

The largest harvest of Copper River-bound Sockeye and Chinook Salmon occurs in the Copper River District marine waters near the mouth of the river during the commercial drift net fishery. Over the last 10-years (2010 -2019) an average of 1,303,861 Sockeye Salmon and 13,265 Chinook Salmon were harvested in the Copper River District by the commercial fishery (ADF&G 2018, ADF&G 2019, Vega 2018). In addition to the commercial fishery, a State subsistence drift gillnet fishery also occurs in the Copper River District (ADF&G 2020a, Vega 2018). The estimated subsistence salmon harvest by State subsistence salmon permit holders in the Copper River District averaged 3,231 total salmon for the

previous 10-year period (2009-2018), of which 2,800 were Sockeye Salmon and 431 were Chinook Salmon (Somerville 2020).

The ADF&G relies on the passage estimates provided by adaptive resolution imaging sonar (ARIS) units at Miles Lake to manage the commercial fishery and provide for upriver escapement and fishery allocation. Over the 10-year (2010-2019), spawning escapement estimates have been within or have exceeded the current sustainable escapement goal of 360,000–750,000 Sockeye Salmon as estimated by Miles Lake sonar (Vega 2018). The 2019 Sockeye Salmon spawning escapement estimate for the Copper River was 741,771 fish (Somerville 2020).

Over the 10-year period (2010-2019), Chinook Salmon escapement estimates have ranged from a low of 12,485 in 2016 to a high of 42,204 fish in 2018 (Somerville 2020, Vega 2018). In 2010, 2014 and 2016 escapement estimates were below the sustainable escapement goal (SEG) of 24,000 Chinook Salmon mandated in the State's management plan. In 2017, the SEG was reached through a cooperative effort, pre-season management actions directed at Chinook Salmon conservation. The State restricted its upriver subsistence fishery and closed both the upriver sport and the Chitina personal use fisheries, and the Federal in-season manager issued Chinook Salmon emergency special actions in the Upper Copper River District, delaying the season start date for the Federal subsistence fisheries and reducing the Federal subsistence Chinook Salmon harvest limit for the gear types of dip net and rod and reel (the gear types that would allow selective release of live fish) (ADF&G 2017, FSB 2017). These early-season 2017 restrictions were rescinded after abundance assessments indicated adequate escapement to meet the SEG. The 2019 Chinook Salmon escapement estimate for the Copper River was 36,627 fish, which is above the 10-year (2010-2019) average escapement of 27,413 Chinook Salmon (Vega 2018, Somerville 2020).

Table 2: Estimated harvest of Sockeye, Chinook and Coho Salmon by Federally qualified subsistence users in the Glennallen Subdistrict 2010 - 2019 (Sarafin 2020, pers. comm.).

Glennallen Subdistrict Federal subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	269	88	12,849	342	73
2011	277	88	14,163	799	60
2012	275	92	14,461	403	85
2013	273	89	15,834	372	27
2014	315	91	21,614	439	25
2015	325	92	24,695	416	14
2016	320	83	15,884	446	11
2017	338	85	15,691	468	1
2018	335	91	15,287	2662	0
2019	343	90	15,873	949	0
10-yr avg	307	89	16,635	730	30

Table 3: Estimated harvest of Sockeye, Chinook and Coho Salmon by Federally qualified subsistence users in the Chitina Subdistrict 2010 - 2019 (Sarafin 2020, pers. comm.).

Chitina Subdistrict Federal subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	92	86	2399	20	38
2011	85	86	2059	15	9
2012	89	94	1427	6	9
2013	99	91	2199	19	9
2014	113	95	1636	15	72
2015	111	93	2404	14	15
2016	128	81	1925	20	41
2017	132	80	1828	15	9
2018	132	92	3430	100	31
2019	181	90	4451	83	22
10-yr avg	116	89	2376	31	26

Table 4: Estimated Harvest of Sockeye, Chinook and Coho Salmon in the Glennallen Subdistrict State subsistence fishery 2010 - 2019 (Somerville 2020, Vega 2018).

Glennallen Subdistrict State subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	1321	72	70719	2099	293
2011	1306	74	59622	2319	372
2012	1527	69	76305	2095	335
2013	1339	73	73728	2148	143
2014	1656	66	75501	1365	233
2015	1631	70	81800	2212	77
2016	1769	64	62474	2075	45
2017	1632	64	39859	2935	57
2018	1659	61	40806	5006	151
2019	1713	68	62384	3439	204
10-yr avg	1555	68	64320	2569	191

Table 5: Estimated harvest of Sockeye, Chinook and Coho Salmon in the Chitina Subdistrict State personal use fishery 2010 - 2019 (Somerville 2020, Vega 2018).

Chitina Subdistrict State personal use fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	9970	61	138487	700	2013
2011	9217	62	128052	1067	1702
2012	10016	58	127143	567	1385
2013	10592	64	180663	744	797
2014	11717	61	157215	719	1129
2015	12635	62	223080	1570	841
2016	11394	55	148982	711	1182
2017	9490	65	132694	1961	715
2018	4982	61	77112	1274	1439
2019	8071	68	171252	2618	1042
10-yr avg	9808	62	148468	1193	1225

Table 6: Comparative number of permits issued in the Chitina Subdistrict under State and Federal systems 2010-2019. The Chitina Subdistrict only is shown in order to allow for comparison of dip netting, which occurs exclusively in this area under State permits, and which also dominates the Federal subsistence fishery in this Subdistrict (Sarafin 2020, pers. comm.).

Year	State Permits Issued	Federal Permits Issued
2010	9,970	92
2011	9,217	85
2012	10,016	92
2013	10,592	99
2014	11,717	113
2015	12,635	111
2016	11,394	128
2017	9,490	132
2018	4,982	131
2019	8,071	181
5-yr. avg. 2015-2019	9,314	137
10-yr. avg. 2010-2019	9,808	116

Effects of the Proposal

There are currently no restrictions on the type of mesh used in dip nets in either State or Federal regulations, so long as the material complies with measurement requirements described in the definition of a dip net; this definition is the same under both State and Federal regulations. In addition to adding the regulatory language proposed, adopting this proposal may necessitate changing the definition of a dip net at § __.25(a) in the CFR.

The majority of salmon taken by Federally qualified subsistence users in the Upper Copper River District are taken by fish wheel, rather than dip net. It is not known how many Federally qualified subsistence users dip netting in the Upper Copper River District are using common black mesh versus monofilament or gillnet. Adopting this regulation would likely have little effect, as dip nets predominate in the State subsistence and personal use fisheries, rather than in the Federal subsistence fishery. The majority of dip netters, who fish under State permits (**Table 6**) would continue to be able to use monofilament or gillnet material.

At the same time, prohibiting use of dip nets with gill-net like material in the Upper Copper River District under Federal regulation could present a burden to Federally qualified subsistence users who do use dip nets with monofilament or gillnet material, because they would have to purchase a new net or mesh, or use a state subsistence permit with less restrictive gear requirements. Furthermore, the regulatory change itself could be burdensome; Federally qualified subsistence users in this area have testified that navigating changing and disparate regulations acts as an impediment to their hunting and fishing activities (Holen et al. 2015).

Because the Federal subsistence fishery is dominated by fish wheels, and because fishermen could switch to using a State permit with less restrictive gear requirements, adopting this proposal on the

Federal level is not likely to change dip netting practice, and would therefore provide little conservation benefit for salmon.

OSM CONCLUSION

Oppose Proposal FP21-12.

Justification

This proposal would make Federal subsistence regulations pertaining to dip net use more restrictive than State subsistence and personal use regulations for the Upper Copper River District. It would place an additional burden on Federally qualified subsistence users while not having the desired conservation effect, because fishing under Federal regulations makes up a small portion of salmon harvest in the Upper Copper River District. Furthermore, users could continue to put monofilament or gillnet material on their dip nets under State regulations in the Glennallen subsistence and Chitina personal use fisheries. A similar proposal has been previously considered and rejected by the State Board of Fisheries.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Oppose FCR21-12. The Council does not want to recommend a regulation that would be convoluted and create an additional requirement on Federally qualified subsistence users only. The Council stated that the damage and mortality of fish was due more to the mesh size and the amount of time the fish is out of the water, than the material of the net. They opined that this is the easiest and most efficient way to catch a fish if dipnetting. Though there should be a move to conservation of the species, this proposal would not result in the desired outcome. If fish are not available, then other user groups should be shut down. The Council also voiced concern that this regulation would be challenging for law enforcement to enforce.

Eastern Interior Alaska Subsistence Regional Advisory Council

Oppose FCR21-12. If adopted, this regulation will cause hardship for subsistence users and make the use of dipnets more restrictive for them than for other users. It's onerous to change all your gear and it might be difficult to get other materials. The Council shared that mesh changes on the Yukon River caused a lot of hardship and they don't want it to be repeated on the Copper River. The Council believes that a better long-term solution is to educate people on how to remove King Salmon quickly and safely from dipnets. The Council also notes that there is a lot of discussion about monofilament versus other braided net materials, but most of the research was done in setnet or driftnet fisheries where net materials make a difference. However, given the relatively short amount of time that fish are in dipnets and the conservation that dipnets provide, dipnet materials don't make that much of a difference to fish injury.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-12: This proposal prohibits the use of monofilament and multifilament mesh dip nets before August 15 in the Upper Copper River District. Before this time, dip net rigging would be limited to braided, inelastic mesh.

Introduction: Dip nets are legal gear under State regulations in the Glennallen Subdistrict subsistence fishery and Chitina Subdistrict personal use fishery. There are no limitations under 5 AAC 01.620, 5 AAC 39.105, or 5 AAC 77.591 as to the type of web material used in a dip net. In 1988, the Alaska Board of Fisheries adopted the current statewide regulation limiting mesh size to a maximum of 4.5 inches. This regulation was adopted in response to staff and public observation indicating more fish were "gilled" than "dipped" when larger mesh was used. At that time, the board agreed that smaller

mesh should be used to ensure fish were dipped.

It is unlikely that prohibition on monofilament or multifilament web material would increase survival of released king salmon because tangling in dip nets is more a function of net depth and mesh size rather than net material.

Impact on Subsistence Users: This could require participants to have two types of nets because mono/multifilament would be allowed August 15 through September 30.

Impact on Other Users: None.

Opportunity Provided by State:

5 AAC 01.620 Subsistence Finfish Fishery—Prince William Sound Area-- Lawful gear and gear specifications

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

(b) Salmon may be taken only by the following types of gear:

(1) In the Glennallen Subdistrict by fish wheels or dip nets;

5 AAC 77.591. Personal Use Fishery—Prince William Sound Area—Copper River Personal Use Dip Net Salmon Fishery Management Plan

(c) Salmon may be taken only with dip nets.

5 AAC 39.105. Types of legal gear

(a) All gear shall be operated in a manner conforming to its basic design.

(c) All references to mesh size in the regulations are considered to be "stretched measure."

(d) Unless otherwise provided in this title, the following are legal types of gear:

(24) a dip net is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand;

Conservation Issues: This change would have no foreseeable impact on conservation of king salmon or sockeye salmon.

Enforcement Issues: A uniform statewide standard provides regulatory consistency that is easier to enforce.

Recommendation: ADF&G **OPPOSES** this proposal. Prohibiting monofilament or multifilament-based mesh material for dip nets in the Upper Copper River salmon fisheries will not facilitate the release of king salmon, does not serve as a conservation measure, and creates inconsistencies between State and Federal regulations.

WRITTEN PUBLIC COMMENTS



Ahtna Intertribal Resource Commission

dba/Copper River-Ahtna Inter-Tribal
Resource Conservation District
PO Box 613
Glennallen, Alaska 99588
907-822-4466
connect@ahtnatribal.org

July 2, 2020

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

Dear Federal Subsistence Board Members,

In 2011, after many years of preparation, a group of Ahtna leaders formed the Ahtna Intertribal Resource Commission (AITRC) to address the compelling need for tribal stewardship of our traditional fish, wildlife and plant resources that have been degraded by nearly three centuries of impact and competition. Because of AITRC's focus on developing fish and wildlife management programs for Ahtna traditional lands, our efforts are contributing to enhanced food security and food sovereignty for residents of the Copper Basin. The subsistence fisheries on the upper Copper River play an important role in the food security of most Ahtna tribal members, as well as in that of other federally-qualified subsistence users.

Toward its goal of supporting the continued availability of salmon for customary and traditional uses, AITRC would like to offer comments on the following proposals:

FP 21-11

AITRC supports FP 21-11. Based on our ongoing research and participation in the fisheries regulatory and management processes, we feel strongly that there is a need for more timely harvest data in the upriver subsistence and personal-use fisheries. Moreover, this is a topic about which we have found broad consensus among both tribal and non-tribal federally-qualified subsistence fishers within the region.

As part of its ongoing social science research through a Partners for Fisheries Management Program (PFMP) grant from the US Fish and Wildlife Service, AITRC has used participatory, ethnographic methods to document management, regulatory and conservation concerns in Copper River fisheries. Concern about the health of salmon stocks has been a common theme emerging from both subsistence fishers and some biologists who have participated in this research, as has anxieties about their future availability for customary and traditional uses. These concerns are accentuated by recent events such as historically low sockeye abundance in 2018 and 2020, and clear trends of decline in Chinook abundance.

Although biologists do not know the reasons for these declines, many enrollees in AITRC's member tribes have expressed strong concern about steadily increasing harvest levels in upriver subsistence and personal-use fisheries. Many of these concerns have been specifically directed toward the state fisheries, but gaining an accurate picture of in-season harvest levels would be best accomplished if in-season reporting were applied universally across all state and federal

Tsin'aen

subsistence and personal-use fisheries. Companion proposals submitted to the State Board of Fisheries address the state-managed fisheries.

While this proposal would require more frequent reporting, it would not require federally-qualified subsistence users to report any more data on their harvests than is required currently. Federal subsistence users must already track their daily harvest levels, by species, and report these totals at the end of each season. If this reporting were done using an online app, it would not require any more effort than is required under the current system.

Timely reporting would probably produce better-quality data than does end-of-season reporting. A common problem with the current system is that subsistence fishers often fail to keep their permits up-to-date, waiting to fill them out till the end of the year when they are due, and guessing about their daily catch totals. During years of low abundance, these data could provide more granular data on the fishery, enabling more adaptive management decision-making. They also might help to build trust and consensus between fisheries management and an interested local public.

FP 21-12

AITRC is in support of proposal FP 21-12, which would ban monofilament-type dipnets between June 1st and August 15th. While Chinook salmon run sizes have fluctuated, they have shown a clear trend of decline during the past 20 years (Savereide et al. 2018). Biologists are investigating the reasons for these declines; multiple factors are likely implicated in these changes, including changing ocean conditions. Even so, simple in-river conservation measures would help to maximize the survival rates of Chinook salmon during spawning migration, while still maintaining in-river harvest opportunities.

Both dipnets constructed with inelastic seine-style mesh, and the traditional Ahtna style made with inelastic mesh, are effective at catching salmon. Inelastic, seine-style nets are widely available and are no more expensive than monofilament-type nets. This proposal would not reduce opportunity, and would have no effect on the number of Chinook salmon federally-qualified dip net fishers would be allowed to retain each year.

This proposal would promote greater survival rates among Chinook salmon caught in nets and then released back into the river. These releases occur frequently with Chinook salmon, both when dip net fishers have exceeded their seasonal limits, and when fishers voluntarily release Chinooks due to conservation concerns. Salmon are far more likely to become severely entangled in monofilament/multifilament nets than in nets with inelastic bags. As the same kind of mesh material used in gillnets, monofilament nets are designed to catch fish on the jaws, gill-plates, fins and other protruding areas of the fish, as well as to stretch and become tightly girdled around their abdomens. These entanglements can cause direct injuries to the salmon (e.g. split tail-fins, broken gill-plates, abrasion), and at the very least, it can make untangling salmon from these nets a far longer and more difficult process, especially for inexperienced fishers. Longer time out of the water leads to increased stress and greater likelihood of mortality. Inelastic-type dipnets, on the other hand, are far more likely to merely enclose the salmon without causing excessive entanglement or injury.

One slight modification to this resolution should be considered: as it is currently worded, this resolution could be interpreted as prohibiting the rigid dipnets that are customary traditional to

Ahtna fishers (commonly made of chicken-wire nowadays). Because of their rigidity, these traditional-type nets do not cause entanglement. Accordingly, the resolution should contain language specifically allowing these, such as by removing the word “braided” from the proposed regulation:

“You may not use a dipnet that is rigged with monofilament or multifilament mesh before August 15th (when the majority of the Chinook run has passed into the upper Copper River). Before this time, your dipnet must be rigged with ~~braided~~, inelastic mesh.”

FP 21-13

AITRC strongly supports proposal FP 21-13, which would ban dipnetting from boats. We feel that the dramatic increase in this method’s popularity (Botz and Somerville 2017) poses significant conservation concerns.

Salmon often delay their upriver migration during high water events, resting in deep parts of the river and/or areas such as eddies where the current is less intense. During these times, catch per unit effort for fish wheels and onshore dipnetters tends to be quite low. However, dipnetters in boats are able to move throughout the river and target these resting areas. On the middle Copper River (i.e. Chitina – Gulkana), subsistence fishers have observed that when the water begins to recede, large pulses of fish have often followed bringing very good fishing during the following days. During the past several years, local/traditional knowledge observations suggest that these pulses of fish have not been occurring in the same way. Although research into this topic is warranted, a very likely explanation for this change is that boat-based dip netters are catching much of the fish that are resting in these deep pockets.

AITRC’s PFMP research and activities have shown that there is significant opposition to the practice among Copper Basin locals. For one longtime subsistence fisher and Ahtna elder, made the following observations during our 2019 interview with him:

[...] Not only do they get ‘em from the shore and now they’re getting ‘em in the middle of the river. And they’re using boats to do it. And the boats are just like, you’re moving. You’re not like you’re standing still waiting for the fish to come to you—you’re going down the river getting ‘em as they’re coming up. And all you’re doing is hanging the net out the w—out the way, but. Not really a work—just to sit there and float and hang onto a net. And then and—and then, they’re right down the middle of the river so right-right outside the fishwheel.

As this elder points out, the mobility of boat dipnetters gives them a competitive advantage over both fishwheel users and dipnetters who fish from shore. Both fishwheel fishers and onshore dipnetters have reported disruptive encroachment by parties that are dipnetting from boats. Because fishwheels are large and stationary, they have no way of avoiding dipnetters from boats who are inconsiderate and come too close. This can also be an issue for dipnetters who are fishing from shore, as onshore fishing sites are limited in some parts of the river.

Dip netting salmon from boats is not a customary or traditional use of the resource. In traditional times, Ahtna fishers dipnetted from shore or from platforms that extended into the river (Simeone and Valentine 2007), but did not dipnet from boats floating in the river. Even among non-native settlers, dip netting from boats does not have a long enough history to be considered a

customary or traditional use of the resource. Rather, this is a practice that has only become widespread during the past one or two decades. Although this is not, specifically, a difference in the equipment used to harvest salmon, it represents a dramatic change in the way in which the fishery is prosecuted. Boats can confer a competitive advantage over fishers who fish from shore, as noted above, but they are expensive to own and operate, and are thus not available to many federally-qualified subsistence fishers.

FP 21-14

AITRC supports FP 21-14, which would ban fish finders from boats that are fishing on the Copper River. Obviously, if FP 21-13 is approved, this proposal will not be necessary. However, if FP 21-13 is voted down, the board should at least the use of devices that enable boat-based fishers to target schools of fish. This targeting contributes to the likely overfishing of salmon during high-water events, as mentioned above.

Fish finders are a technology that is in no way customary or traditional to any of the fisheries on the upper Copper River. This proposed regulatory change would be unlikely to have negative impacts on many federally-qualified subsistence users, as most experienced locals already know where to find schools of fish, anyway. Restricting fish-finders would merely encourage inexperienced fishers to develop the knowledge and experience that are requisite for fishing on a swift, dangerous river such as the Copper.

Along these lines, we have previously heard the objection to banning fish finders; that they are needed to watch for rocks and sandbars on the Copper River. We are somewhat skeptical of this explanation, as the Copper is a swiftly-flowing river, and most fish finders are not reliable for spotting rocks or other objects in time to avoid them. Learning to read river conditions (i.e. through direct observation) is by far the safest and most reliable way of avoiding these hazards. Again, fishers who depend on fish-finders to avoid running aground may lack the necessary experience to safely fish on a dangerous river like the Copper. Rather than increasing safety for these inexperienced fishers, overreliance on these devices diverts their attention away from actually observing the river.

Thank you for the opportunity to comment on these proposals.

Tsin'aen,


Karen Linnell
Executive Director

References:

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Fw: [EXTERNAL] comments on copper river proposals

From: michael mahoney <mjmahoney22@hotmail.com>
Sent: Thursday, July 2, 2020 12:33 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] comments on copper river proposals

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

Thank you for the opportunity to comment.

FP 21-10

Given the concerns that biologists, managers and stakeholders have with the king and sockeye salmon abundance on the copper river, I don't think that it would be a good idea to open up a new fishery on the lower copper river in order to target these fish (especially Kings). Therefore, I am opposed to it. Cordova residents have ample opportunity to harvest salmon resources in the area. One excellent king salmon harvest opportunity, which is utilized by many residents is the remote release site at fleming spit.

FP 21-11

I cannot think of any downside to this proposal. I support it. With modern communication options, there is no reason why this timely reporting would be too burdensome to the user. Good in-season management requires current data, and this is the only way for that to happen. It is time to give our managers the tools they need to protect this fishery.

FP 21-12, 13, 14

I think that all of these changes would be helpful in protecting our King salmon and I support them. All of these practices are not customary and traditional, and have resulted in a much higher efficiency levels of harvest. With the use of boats, and sonar equipment in particular, there is a corresponding profit motive from the guide services who profit from this.

Sincerely,
Mike Mahoney
PO Box 2416
Cordova, AK 99574

Fw: [EXTERNAL] Prince William Sound proposals

From: Thea Thomas <thea@ctcak.net>
Sent: Thursday, July 2, 2020 7:19 AM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Prince William Sound proposals

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

Dear Mr. Matuskowitz,

I am a 40 year resident of Cordova, Alaska and a commercial fisherman. Over the years, i have served on several boards and presentedly am on the board of the Copper River/Prince William Sound Marketing Association and the Prince William Sound Science Center.

I am strongly opposed to proposal FP21-10. Subsistence users have more than adequate opportunity through the State of Alaska subsistence openers which occur 3 days a week, and the federal subsistence opportunity on the Eyak River.

I strongly support proposal FP21-11, FP21-12, FP21-13 and FP21-14. These proposals are important to limit over harvest in the Chitina dipnet fishery and to acquire timely data on the harvest.

Thank you

Thea Thomas
PO BOX 1566
Cordova, AK 99574
907 424 5266

June 29, 2020

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

Mr. Matuskowitz:

Enclosed are Ahtna Tene Nene' comments on 2021-2023 Federal Fisheries proposals. Please record them as public comments for Southcentral Subsistence Regional Advisory Council's and Eastern Subsistence Regional Advisory's recommendation, and to the Federal Subsistence Board for final decision making and action.

Sincerely,

David Stickwan
for
John Dye
Mr. John Dye,
Vice Chair

Page 1 of 12

FP21-12

1. Kirk Wilson
Hco1 box 1960
Glennallen, AK 99558
907.320.1016
kirkakfish@yahoo.com

2. What regulations you wish to change. Include management unit number and species. Quote the current regulation if known. If you are proposing a new regulation, please state, "new regulation."

50 CFR 100.27(11)(xi) - New regulation

3. How should the regulation read? Write the regulation the way you would like to see it written in the regulations.

You may not use a dipnet that is rigged with monofilament or multifilament mesh before August 15th (when the majority of the Chinook run has passed into the upper Copper River). Before this time, your dipnet must be rigged with braided, inelastic mesh.

4. Why should this regulation change be made?

Recent Copper River abundance and escapement estimates have raised concern about the drainage-wide health of Chinook salmon populations. For this reason, subsistence fishers have been permitted to keep only five Chinook salmon per year. However, the use of dipnets with monofilament or multifilament mesh (i.e. gillnet material) has raised concern about survival rates of Chinooks that are caught and then released. Compared with braided inelastic mesh nets (i.e. seine-style), salmon tend to become far more entangled in monofilament-type nets. It can take as long as ten minutes to untangle and release a salmon from such a net. Salmon experience stress and increased mortality rates in proportion to the length of time they are out of the water. Additionally, these entanglements frequently cause injuries, such as split tail-fins, which further increase their mortality.

5. You should provide any additional information that you believe will help the Federal Subsistence Board in evaluating the proposed change.

Comments:

We support FP21-12 to dis-allow use of a dip net that is rigged with monofilament or multifilament mesh before August 15th. After Chinook are released with this type of dip net, it causes undue harm or death to Chinooks. Chinooks may not reach spawning grounds if they are harmed or weakened by these dip nets.

Alaska Dept. of Fish and Game reported that management objectives for Chinooks and Sockeyes may not be met in FY2020. Chinooks are on the decline in the Copper River District, we need to do what can be done to protect them so King Salmon may reach spawning grounds.

Bonnie Yazzie
PO Box 67
Chitina, AK 99566

July 2, 2020

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

To the board:

I am from an Ahtna family who has depended on Copper River salmon since time immemorial. Although I lived away from the region for a long time until fairly recently, we still received salmon every year from our relatives. I work for Native Village of Chitina as an Office/Accounting Assistant, and serve as Secretary/Treasurer on the Ahtna Intertribal Resource Commission Board of Directors.

FP 21-11: support. I think that we need to know exactly what's being taken in order to accurately manage the fishery. This would help keep people more honest and in-check. In some of the Kenai Peninsula clam fisheries, they have checkpoints to check people's permits and see how many clams people have dug. It helps keep people honest. But when dipnetters come here to Chitina there's no check-point. We have more than 10,000 people come through here each year and nobody is monitoring. The very least we can do is require in-season reporting.

I also support FP 21-12, to ban monofilament dipnets during king season.

FP 21-13: support. Dipnetting from a boat is not a customary or traditional way of getting salmon. They didn't do it back in the early 1900s. Back then, we actually made our own dipnets out of alder. We didn't get on boats and dipnet for salmon. The people nowadays who are dip netting from boats are getting all their salmon easy. They come down by the thousands and all dipnet at the same time, and the people who live up the river are not getting their salmon. Last year was a good example. Managers opened the dipnetting in June and hardly anybody got salmon in their fishwheels after that. To me it's taking unfair advantage of the resource. They're not dipnetting; they're trawling. They're just holding their dipnets in the water and drifting down the stream and throwing the fish in their boats. I've heard of dipnetters in boats limiting out this year, while many of us with fishwheels are struggling.

FP 21-14: support. In the past, boaters with fish-finders have used the excuse that they need the fish-finders to navigate the river channel. These fishers need to learn the river channel. Using fish-finders to find salmon is taking unfair advantage, once again.

Thank you for your consideration.

Sincerely,



Bonnie Yazzie

FP21-13 Executive Summary	
General Description	Proposal FP21-13 requests that the Board prohibit fishing with dip nets from boats or crafts floating in the river in the Upper Copper River District. <i>Submitted by: Kirk Wilson.</i>
Proposed Regulation	<p>§ ____ .27(e)(11) <i>Prince William Sound Area</i></p> <p><i>(v) In the Upper Copper River District, you may take salmon only by fish wheels, rod and reel, or dip nets.</i></p> <p style="text-align: center;">***</p> <p><i>(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:</i></p> <p style="text-align: center;">***</p> <p><i>(H) If you are using a dip net, you must fish from shore, from islands in the river, or from stationary objects connected to shore. You may not fish from boats or crafts floating in the river.</i></p>
OSM Conclusion	Oppose
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	Oppose
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	Support
Interagency Staff Committee Comments	The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.
ADF&G Comments	Oppose
Written Public Comments	5 Support

STAFF ANALYSIS
FP21-13

ISSUES

Proposal FP21-13, submitted by Kirk Wilson of Glennallen, requests that the Federal Subsistence Board (Board) prohibit fishing with dip nets from boats or crafts floating in the river in the Upper Copper River District.

DISCUSSION

The proponent states that Copper River Basin residents with local knowledge have raised concerns about the health of Copper River salmon stocks. The proponent indicates that dip netting from boats raises some particular concerns. Namely, wild salmon stocks tend to hole up in deep areas and rest on their way up river, especially during high water. Fishing from boats allows users to target salmon that are concentrated in these areas. The proponent believes that the increased popularity of dip netting from boats since 2010, combined with the high numbers of fish that each subsistence dip netter can harvest, could be contributing to the depletion of some smaller stocks.

Existing Federal Regulation

§____.27(e)(11) Prince William Sound Area

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

(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:

Proposed Federal Regulation

§____.27(e)(11) Prince William Sound Area

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

(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:

(H) If you are using a dip net, you must fish from shore, from islands in the river, or from stationary objects connected to shore. You may not fish from boats or crafts floating in the river.

Existing State Regulation

5 AAC 01.620 Subsistence Finfish Fishery—Prince William Sound Area-- Lawful gear and gear specifications

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

(b) Salmon may be taken only by the following types of gear:

(1) In the Glennallen Subdistrict by fish wheels or dip nets;

5 AAC 77.591. Personal Use Fishery—Prince William Sound Area—Copper River Personal Use Dip Net Salmon Fishery Management Plan

(c) Salmon may be taken only with dip nets.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters comprise those waters within and adjacent to the exterior boundaries of Wrangell-St. Elias National Park and Preserve (**Figure 1**).

The Upper Copper River District is comprised of the Chitina Subdistrict and the Glennallen Subdistrict. The Subdistricts are geographically defined in the same way in Federal and State regulation. The Chitina Subdistrict consists of all waters of the mainstem Copper River downstream of the downstream edge of the Chitina-McCarthy Road Bridge to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek, as designated by Alaska Department of Fish and Game (ADF&G) regulatory markers, a distance of approximately ten miles. The Glennallen Subdistrict consists of all waters of the mainstem Copper River from the mouth of the Slana River downstream to the downstream edge of the Chitina-McCarthy Road Bridge, a distance of approximately 120 miles.

Customary and Traditional Use Determinations

Glennallen Subdistrict

Rural residents of the Prince William Sound Area and residents of Cantwell, Chickaloon, Chisana, Dot Lake, Dry Creek, Healy Lake, Northway, Tanacross, Tetlin, Tok, and those individuals living along the Alaska Highway from the Alaskan/Canadian border to Dot Lake, along the Tok Cutoff from Tok to

Mentasta Pass, and along the Nabesna Road have a customary and traditional use determination for salmon in the Glennallen Subdistrict of the Upper Copper River District.

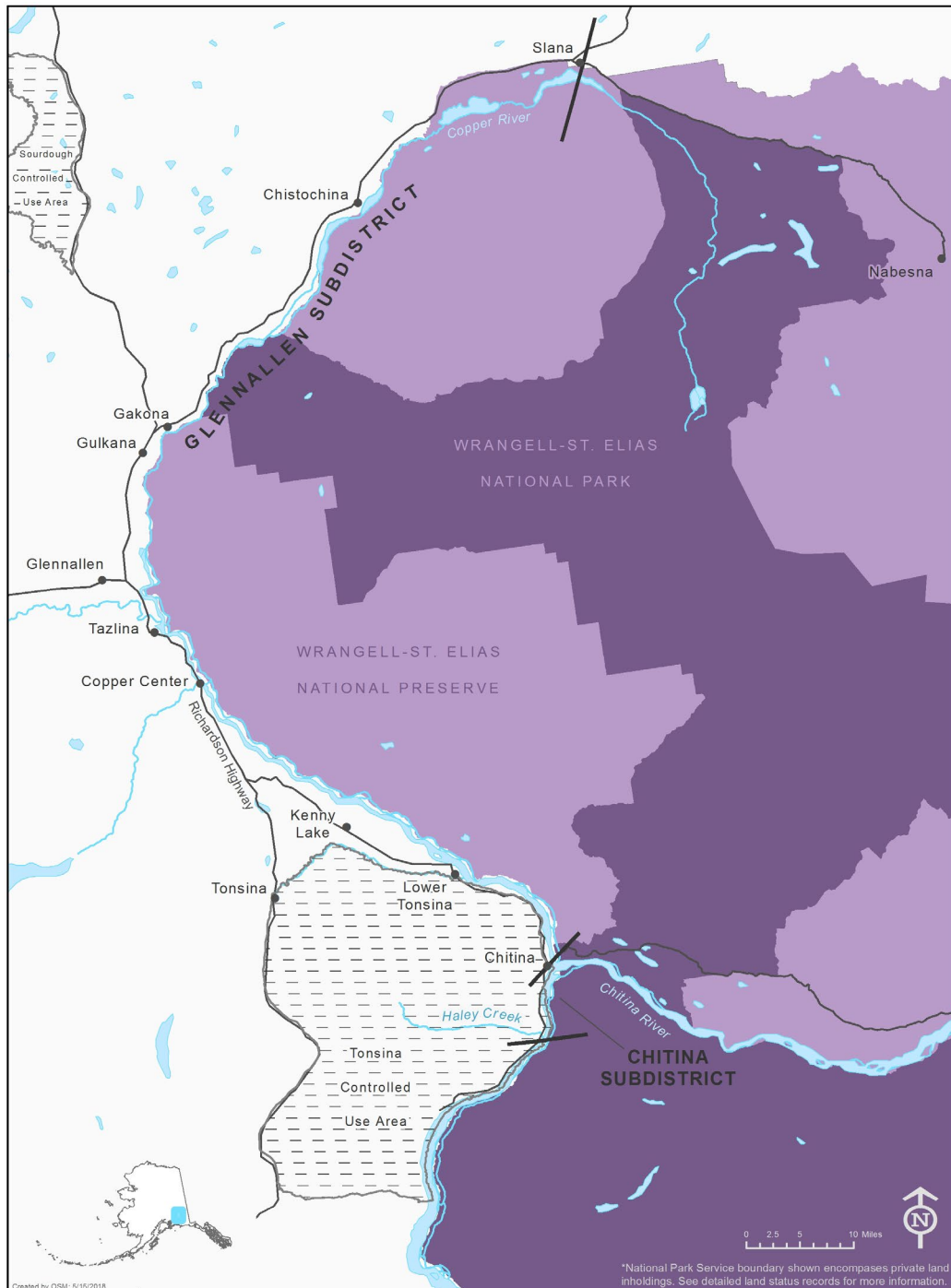


Figure 1: Upper Copper River drainage, showing exterior boundary of Wrangell-St. Elias National Park and Preserve as well as the Chitina and Glennallen Subdistricts of the Upper Copper River District.

Chitina Subdistrict

Rural residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road have a customary and traditional use determination for salmon in the Chitina Subdistrict of the Upper Copper River District.

Regulatory History

In 1999, regulations were adopted by the Board when promulgating the initial Federal regulations for fish in *navigable* waters; residents of the Prince William Sound Area were initially listed as having customary and traditional use of salmon in the Glennallen Subdistrict (64 Fed. Reg. 5. 1276-1313 [January 8, 1999]). In 2001, the Board adopted Proposal FP01-15, which established a customary and traditional use determination for salmon in the Chitina Subdistrict. The same year, the Board also adopted a modified version of Proposal FP01-16, submitted by the Copper River Native Association, which defined seasonal harvest limits as requested, and created a Federal subsistence fishing season from May 15 to September 30.

In 2002, the Board adopted Proposal FP02-17, submitted by Wrangell-St. Elias National Park Subsistence Resource Commission, requesting changes to regulations in addition to a review of eligible subsistence fishers for the Upper Copper River district. The proposal was split into two proposals; Proposal FP02-17a added communities to the customary and traditional use determinations for the Glennallen and Chitina Subdistricts. Proposal FP02-17b allowed those with customary and traditional use determination to obtain a permit for each subdistrict in the same year. Additionally, FP02-17b ensured that combined harvests from both subdistricts would not exceed the harvest limit set for the Glennallen Subdistrict, and allowed for multiple gear types to be specified on each permit. In 2002, the Board created a Federal permit requirement for the Upper Copper River District administered by the National Park Service.

In 2006, the Board took no action on Proposal FP06-20, which was submitted by the Ahtna Tene Nene' Subsistence Committee and requested that fish wheels in the Upper Copper River District be equipped with a live box unless checked every 4 hours. The Southcentral Alaska Subsistence Regional Advisory Council opposed this proposal, and the Eastern Interior Alaska Subsistence Regional Advisory Council recommended no action. The same year, the Board considered Proposal FP06-21, submitted by Ahtna Tene Nene' Subsistence Committee, requesting that fish wheels in the Upper Copper River District be checked and all fish removed every 24 hours. The Southcentral Alaska Regional Advisory Council supported the proposal with modification to require that fish wheels in the Upper Copper River District be checked at least every 48 hours and all fish removed. The Eastern Interior Alaska Subsistence Regional Advisory Council opposed the proposal. The Board adopted Proposal FP06-21 with modification to require fish wheel operators to check their fish wheels every 10 hours.

In 2006 the Board also considered Proposal FP06-22, submitted by the Ahtna Tene Nene' Subsistence Committee, which requested that fyke nets be allowed to harvest up to 1,000 salmon in Tanada Creek upstream of the weir and that incidental harvests of other fish be allowed. The Board adopted this proposal with modification recommended by the Southcentral Alaska Regional Advisory Council to limit use to only one fyke net after consultation with in-season manager, to require that the subsistence user be present during use, and to ensure that Chinook Salmon (*Oncorhynchus tshawytscha*) incidentally caught be released unharmed.

In 2007 the Board considered and rejected Proposal FP07-14, which was submitted by Cris Grimwood of Cordova. This proposal requested a three month opening in the lower Copper River using dip net or rod and reel with eggs. It was opposed by the Southcentral Alaska Regional Advisory Council. The same cycle, the Board considered and rejected Proposal FP07-15, submitted by the Ahtna Tene Nene' Subsistence Committee, which would have required that fish wheels be removed to above the high water mark at the end of the season. Both the Southcentral Alaska and the Eastern Interior Alaska Regional Advisory Councils opposed. Finally, in 2007 the Board considered and rejected FP07-16, submitted by the Ahtna Tene Nene' Subsistence Committee, which would have required that fish wheels be at least 200 feet apart. The Southcentral Alaska Regional Advisory Council opposed the proposal, and the Eastern Interior Alaska Regional Advisory Council deferred to the home region.

In 2019 the Board adopted Proposals FP19-15 and FP19-16, both of which were submitted by Wrangell-St. Elias National Park and Preserve. Proposal FP19-15 requested that requirements to check fish wheels on the Upper Copper River be transferred from the wheel owner to the operator. Proposal FP19-16 clarified regulatory language, changing specifications for permits so that one unit of gear *per person* could be operated at one time, rather than one unit of gear at one time. The Southcentral Alaska and the Eastern Interior Alaska Subsistence Regional Advisory Councils both supported these proposals.

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

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

Current Events

In 2017, the State Board of Fisheries (BOF) considered but rejected Proposal 13 for the Glennallen Subdistrict, submitted by the Ahtna Tene Nene' Customary and Traditional Use Committee. This

proposal would have prohibited dip netting from boats in State subsistence and personal use fisheries of the Upper Copper River District. In the rationale for their proposal, the proponent stated:

“Individuals are dip netting from a boat targeting schools of salmon. When they find a school of fish they take their limit within a short limit of time, not allowing for escapement. Subsistence fishermen are catching salmon away from the shoreline of the Copper River, salmon rest in holes away from the shoreline in high water and are susceptible to being easily caught in dip nets from boats using electronics. Once a holding hole is located, a boat with electronics makes multiple passes until the fish are cleaned out. When the water drops, there are no fish left to continue to the spawning beds...If this keeps up, our Chinook [Salmon] stocks will be depleted in a very short time. Fishing from a boat with dip nets may be the reason for low return of Reds [Sockeye Salmon] and King [Chinook] Salmon. Fishing from a boat is not a customary and traditional method and means to harvest fish. This new method is causing unintended overharvest and allocation issues that must be addressed...Fish wheels, ice fishing, and dip nets with platforms are customary and traditional methods of harvesting fish. Ahtna People did not use boats to fish from, they fished for salmon with a dip net while standing on a platform. Boats were used to travel from one place to another place” (Alaska Board of Fisheries 2017a).

This proposal was rejected by the BOF. Rationales for support and opposition were offered by members of the public and the BOF during discussion of the proposal, and are relevant for considering the current proposal to prohibit dip netting from boats under Federal regulation. Those in support of prohibiting the use of dip nets from boats argued that fishing with dip nets from boats is a new development in the Glennallen Subdistrict, which was not part of traditional Ahtna practice. Use of dip nets and fish finders from boats (submitted as separate proposals in both the State and Federal regulatory cycles) are interconnected issues, in that fish finders may be used during periods of high water to locate areas likely to contain groups of salmon, which are then fished efficiently with dip nets from boats (Alaska Board of Fisheries 2017b).

Those in support of the proposal expressed their alarm at the number of boats and non-local users in the Glennallen Subdistrict, and voiced concerns that Copper River salmon runs may be depleted if actions are not taken to limit methods and means. One person clarified that Chinook Salmon are the major species of concern with dip netting from boats, because they must be released after the limit is reached. Public testimony provided during meeting indicated Chinook Salmon tend to be repeatedly caught and entangled in nets (Alaska Board of Fisheries 2017b).

One member of the public voiced opposition to the proposal, emphasizing that subsistence technologies and practices change over time:

“This is a subsistence fishery...because things get more modern, you don’t restrict subsistence because methods and means get more modern...This is a subsistence fishery, and subsistence fisheries are not supposed to be restricted until you eliminate all other users” (Alaska Board of Fisheries 2017b).

Others in opposition to the prohibition of fishing from dip nets noted that tradition differs among user groups. Some families have been dip netting from boats for multiple generations; these speakers felt

that traditional use should not be limited or defined through regulations. This proposal failed; the State's rationale was there was not a conservation concern for salmon, and this regulation would have had limited impact (Alaska Board of Fisheries 2017b).

Two proposals similar to the one being considered in this analysis were submitted to the State in 2020 and will be considered at the March 2021 Alaska Board of Fisheries meeting, along with other proposals for the Prince William Sound. These proposals were submitted by the Copper Basin Fish & Game Advisory Committee and Ahtna Tene Nene', and would prohibit dipnetting from a boat in the Glennallen Subdistrict and entire Upper Copper River District, respectively.

2020 Fishery Update

The 2020 Copper River salmon passage was much weaker than expected with a cumulative Miles Lake Sonar estimate of 530,313 fish on July 29th, the last day of operation (ADF&G 2020e). The cumulative passage estimate lagged behind the management object of 628,553 fish. Closures of both the commercial gillnet fishery at the mouth of the river and the Chitina Subdistrict personal use salmon dip net fishery were required to provide more fish towards the escapement (ADF&G 2020b, ADF&G 2020c).

Cultural Knowledge and Traditional Practices

Ahtna Athabascan people have harvested Sockeye, Chinook, and Coho Salmon in the Upper Copper River District for at least 1,000 years (Workman 1976). The presence of Upper Tanana Athabaskans fishing in the Upper Copper River was noted in 1885 and long-term kinship and trading ties between the Ahtna and Upper Tanana have been documented (Haynes et al. 1984). Sockeye Salmon are the most important species used in the area, followed by Chinook Salmon.

The Ahtna traveled to seasonal camps throughout their territory based upon resource availability. Fish camps were located on the Copper River and several major tributaries (De Laguna and McClellan 1981). Early June and July were the preferred time for fishing Sockeye Salmon runs headed for streams and lakes in the Upper Copper River, as this was the best time for making *ba'*, or dried fish (Simeone and Kari 2002).

There are eight contemporary Ahtna villages, (Mentasta Lake, Chistochina, Gakona, Gulkana, Tazlina, Copper Center, Chitina, and Cantwell) almost all of which are located near traditional fishing camps. Other communities situated on or near the banks of the Copper River include Slana, Gakona Junction, Nabesna, Willow Creek, Kenny Lake, and Tonsina. Salmon remain vital to the subsistence way of life for those living in the Upper Copper River Basin (Reckord 1983, Brady et al. 2013). Comprehensive subsistence surveys conducted by the ADF&G show that salmon comprise a majority of the annual harvest in most communities along the Copper River drainage (Lavine and Zimpelman 2014). Salmon made up 78% of the overall subsistence harvest in edible weight in Chitina in 2012, 68% of the overall subsistence harvest in Tazlina in 2013, and 66% of the subsistence harvest in Kenny Lake in 2012 (Table 1).

Table 1: Salmon harvest by select communities with C&T for salmon in the Upper Copper River (ADF&G 2020d).

Community	Survey year	Pounds of salmon per capita	Percentage of overall harvest comprised of salmon
Chitina	2012	191.59	78%
Tazlina	2013	102.14	68%
Kenny Lake	2012	93.61	66%
Gulkana	2012	91.69	64%
Copper Center	2010	129.25	61%
Chistochina	2009	94.22	58%
Glennallen	2013	56.97	58%
Gakona	2012	95.94	56%
McCarthy	2012	45.78	53%
Tonsina	2013	101.76	51%
Slana	2010	95.74	47%
Dot Lake	2011	44.16	37%
Mentasta Lake	2010	43.46	29%
Tok	2011	51.32	25%
Cantwell	2012	15.18	15%
Northway	2014	40.81	13%
Dry Creek	2010	17.23	12%

Ahtna fishing technology adapted to local conditions and salmon behavior. The traditional Ahtna/Upper Tanana methods of harvesting salmon included basket dip nets (*ciisi*), platform fish weirs, funnel-shaped basket traps, and salmon spears or harpoons; fish wheels were introduced in the early 1900s, after which they became very popular and replaced some earlier fishing technologies (De Laguna and McClellan 1981).

Dip netting for Sockeye Salmon as well as Chinook Salmon took place from platforms built over the River. "Ahtna dip net platforms were usually constructed from dry spruce poles lashed together...one set of cross pieces was set against the riverbank, and the other pair set out in the river" (Simeone and Kari 2002: 96). "In the river's main channel the Ahtna built platforms or scaffolds out over the water and used long handled dip nets to catch sockeye traveling close to the riverbank" (Simeone and Kari 2002: 93).

Prior to the opening of the Copper River Basin to the road system, the Ahtna had a system of territories dictating access to fishing sites, which formed part of their traditional management system. "One method of regulating the harvest of resources such as salmon is to limit access to harvest areas. By monitoring access to the most productive fishing sites Ahtna bands were able to regulate competition and manage the local harvest for their specific benefit" (Simeone and Kari 2002: 38).

After World War II the Copper River Basin became accessible to Alaska's major population centers, and today is bisected by the Glenn and Richardson Highways. The intersection of strong local traditional fishing and management practices, historically abundant Sockeye Salmon runs, and easy access from urban centers has created a unique potential for user conflict in the Upper Copper River District. "Today Ahtna...compete with thousands of non-Natives who come to fish in the river every summer" (Simeone and Kari 2002: 65). As a result of concerns about trespassing and theft, Ahtna take their fish home to process, rather than working on them at traditional fish camps.

While it is easy for outsiders to access the Copper River Basin, access to fishing sites is relatively limited. Traditional territories have given way to private property and Ahtna Regional and Village corporation land. "As a result much of the land along the Copper River has become private property and access to the river is severely limited" (Simeone and Kari 2002: 45). This circumstance has led to a concentration of non-local fishers at Chitina above and below the bridge, and at a few other locations, such as Copperville and the Chitina Airport, where there are short swaths of State-managed lands with river access. Dip netting is most common at Chitina below the bridge.

Fishing from a boat with dip nets is generally more productive than fishing from shore because users can move to areas that would otherwise not be accessible, and can also compensate for changing water levels by moving to different locations. D-framed dip nets are often used from boats, which can be pulled parallel to the river bottom. At least two people must work together to dip net from a boat, as a boat driver is needed, and it is difficult for one person to drive the boat and operate a net at the same time.

Even prior to privatization of land, good dip net sites were valued, and according to oral history, there were no good dip sites located on the upper Copper River above the village of Chistochina (Simeone and Kari 2002). In addition, many historically accessible fishing sites have been lost due to erosion. New patterns of private land ownership have precluded establishment of new widely accessible fishing sites.

In their documentation of Traditional Ecological Knowledge of salmon in the Upper Copper River, Simeone and Kari (2002) show that the Ahtna named specific runs comparable to what we describe in management as salmon stocks. According to Kari, "Each run is named for a side stream or place, and the Ahtna say they can discern the differences among fish from various locations" (Kari 1986, cited in Simeone and Kari 2002: 24). Based on these differences, Ahtna Elder Katie John reported the loss of several stocks of salmon in her lifetime, which she called "missing fish." She noted spawning populations missing from Cobb Lakes, Bone Creek, King Salmon creek, and Batzulnetas. In 1996 Katie John testified that "salmon are disturbed by the presence of boats, airplanes, and gasoline from outboard motors" (Simeone and Kari 2002: 33). In testimony given to the State Board of Fish in 1996, John stated that use of boats had contributed to missing fish:

"You know what I believe was all cut off those fish gone like that? They even use boat (in) Tanada Lake they use boat. Cobb Lake, that's Tanada Lake and Cobb Lake that's right close between...they got

all the people moving in and they use boat, day and night. I think they use boat, plane, you know it was something from those oil and fuel in those lake" (Simeone and Kari 2002: 34).

In addition to causing concern about the role of pollution from boats to stocks that have disappeared, boats are of concern to some Federally qualified subsistence users because they bring people to parts of the river channel that cannot be exploited from traditional fishing vantage points on shore or platforms. Because of the strong current in the Upper Copper River, salmon travel where the current is weakest and rest in areas of slower water. When far enough away from shore, these pooling areas are accessible only by boat, and would otherwise go undisturbed.

Fish wheels are the predominant gear used by communities in the Upper Copper River Basin. For example, in 2013, Glennallen residents harvested 88% of their salmon (in edible weight) by fish wheel. Gulkana residents took 91% of their salmon harvest by fish wheel, and Tazlina residents took 88% of their salmon harvest by fish wheel (Holen et al. 2015). In contrast, the percent of the salmon harvest taken by dip nets for these communities was quite low, at 3.4% for Glennallen, 2% for Gulkana, and 3% for Tazlina (Holen et al. 2015). Flooding and high water levels have created challenges to installing, maintaining, and accessing fish wheels in recent years (Holen et al. 2015). The Upper Copper River District is easily accessible via the Richardson and Glenn Highways, and competition for resources is a main concern for local residents (Holen et al. 2015).

Biological Background and Harvest History

The Copper River supports multiple runs of salmon, but Sockeye Salmon (*Oncorhynchus nerka*), and Chinook Salmon (*Oncorhynchus tshawytscha*) are the two species primarily targeted in the Federal subsistence fisheries. Federally qualified subsistence users are restricted to three areas of the upper Copper River, the Chitina and Glennallen Subdistricts and the Batzulnetas area. Sockeye Salmon is the most abundant species, and is the main fish targeted by all user groups in both the Chitina and Glennallen Subdistricts. The 2019 estimated subsistence salmon harvest by Federally qualified subsistence users in the Glennallen Subdistrict was 15,873 Sockeye Salmon and 949 Chinook Salmon. The Sockeye Salmon harvest was below the 10-year average of 16,635 fish while the Chinook Salmon harvest was above the 10-year average of 730 fish (**Table 2**). A smaller number of salmon are harvested by Federally qualified subsistence users in the Chitina Subdistrict. The 2019 estimated subsistence salmon harvest by Federally qualified subsistence user in the Chitina Subdistrict was 4,451 Sockeye Salmon and 83 Chinook Salmon. Both Sockeye and Chinook Salmon harvests were above the 10-year average of 2,376 Sockeye Salmon and 31 Chinook Salmon (**Table 3**).

Salmon are harvested in the State subsistence fishery in the Glennallen Subdistrict in greater numbers than Federal subsistence harvest. The estimated subsistence salmon harvest by State salmon dip net and fish wheel permit holders in the Glennallen Subdistrict within the last 10-years (2010-2019) averaged 64,320 Sockeye Salmon and 2,569 Chinook Salmon (**Table 4**). Additionally, salmon are harvested from the Chitina Subdistrict personal use dip-net fishery with a 10-years average harvest of 148,458 Sockeye salmon and 1,193 Chinook Salmon (**Table 5**).

The largest harvest of Copper River-bound Sockeye and Chinook Salmon occurs in the Copper River District marine waters near the mouth of the river during the commercial drift net fishery. Over the last 10-years (2010 -2019) an average of 1,303,861 Sockeye Salmon and 13,265 Chinook Salmon were harvested in the Copper River District by the commercial fishery (ADF&G 2018, ADF&G 2019, Vega 2018). In addition to the commercial fishery, a State subsistence drift gillnet fishery also occurs in the Copper River District. The estimated subsistence salmon harvest by State subsistence salmon permit holders in the Copper River District averaged 3,231 total salmon for the previous 10-year period (2009-2018) of which 2,800 were Sockeye Salmon and 431 were Chinook Salmon (Somerville 2020).

The ADF&G relies on the passage estimates provided by adaptive resolution imaging sonar (ARIS) units at Miles Lake to manage the commercial fishery and provide for upriver escapement and fishery allocation. Over the 10-year (2010-2019) spawning escapement estimates have been within or have exceeded the current sustainable escapement goal of 360,000–750,000 Sockeye Salmon as estimated by Miles Lake sonar (Vega 2018). The 2019 Sockeye Salmon escapement estimate for the Copper River was 741,771 fish (Somerville 2020).

Over the 10-year period (2010-2019), Chinook Salmon escapement estimates have ranged from a low of 12,485 in 2016 to a high of 42,204 fish in 2018 (Somerville 2020, Vega 2018). In 2010, 2014 and 2016 escapement estimates were below the sustainable escapement goal (SEG) of 24,000 Chinook Salmon mandated in the State’s management plan. In 2017, the SEG was reached through a cooperative effort, pre-season management actions directed at Chinook Salmon conservation. The State restricted its upriver subsistence fishery and closed both the upriver sport and the Chitina personal use fisheries, and the Federal in-season manager issued Chinook Salmon emergency special actions in the Upper Copper River District, delaying the season start date for the Federal subsistence fisheries and reducing the Federal subsistence Chinook Salmon harvest limit for the gear types of dip net and rod and reel (the gear types that would allow selective release of live fish) (ADF&G 2017, FSB 2017). These early-season 2017 restrictions were rescinded after abundance assessments indicated adequate escapement to meet the SEG. The 2019 Chinook Salmon escapement estimate for the Copper River was 36,627 fish, which is above the 10-year (2010-2019) average escapement of 27,413 Chinook Salmon (Somerville 2020, Vegas 2018).

Table 2: Estimated harvest of Sockeye, Chinook and Coho Salmon by Federally qualified subsistence users in the Glennallen Subdistrict 2010 - 2019 (Sarafin 2020, pers. comm.).

Glennallen Subdistrict Federal subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	269	88	12,849	342	73
2011	277	88	14,163	799	60
2012	275	92	14,461	403	85
2013	273	89	15,834	372	27
2014	315	91	21,614	439	25
2015	325	92	24,695	416	14
2016	320	83	15,884	446	11
2017	338	85	15,691	468	1
2018	335	91	15,287	2662	0
2019	343	90	15,873	949	0
10-yr avg	307	89	16,635	730	30

Table 3: Estimated harvest of Sockeye, Chinook and Coho Salmon by Federally qualified subsistence users in the Chitina Subdistrict 2010 - 2019 (Sarafin 2020, pers. comm.).

Chitina Subdistrict Federal subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	92	86	2399	20	38
2011	85	86	2059	15	9
2012	89	94	1427	6	9
2013	99	91	2199	19	9
2014	113	95	1636	15	72
2015	111	93	2404	14	15
2016	128	81	1925	20	41
2017	132	80	1828	15	9
2018	132	92	3430	100	31
2019	181	90	4451	83	22
10-yr avg	116	89	2376	31	26

Table 4: Estimated Harvest of Sockeye, Chinook and Coho Salmon in the Glennallen Subdistrict State subsistence fishery 2010 - 2019 (Somerville 2020, Vega 2018).

Glennallen Subdistrict State subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	1321	72	70719	2099	293
2011	1306	74	59622	2319	372
2012	1527	69	76305	2095	335
2013	1339	73	73728	2148	143
2014	1656	66	75501	1365	233
2015	1631	70	81800	2212	77
2016	1769	64	62474	2075	45
2017	1632	64	39859	2935	57
2018	1659	61	40806	5006	151
2019	1713	68	62384	3439	204
10-yr avg	1555	68	64320	2569	191

Table 5: Estimated harvest of Sockeye, Chinook and Coho Salmon in the Chitina Subdistrict State personal use fishery 2010 - 2019 (Somerville 2020, Vega 2018).

Chitina Subdistrict State personal use fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	9970	61	138487	700	2013
2011	9217	62	128052	1067	1702
2012	10016	58	127143	567	1385
2013	10592	64	180663	744	797
2014	11717	61	157215	719	1129
2015	12635	62	223080	1570	841
2016	11394	55	148982	711	1182
2017	9490	65	132694	1961	715
2018	4982	61	77112	1274	1439
2019	8071	68	171252	2618	1042
10-yr avg	9808	62	148468	1193	1225

Table 6: Comparative number of permits issued in the Chitina Subdistrict under State and Federal systems 2010-2019. The Chitina Subdistrict (rather than the entire Upper Copper River District) is shown in order to allow for comparison of dip netting, which occurs exclusively in this area under State permits, and which also dominates the Federal subsistence fishery in this Subdistrict. (Sarafin 2020, pers. comm.).

Year	State Permits Issued	Federal Permits Issued
2010	9,970	92
2011	9,217	85
2012	10,016	92
2013	10,592	99
2014	11,717	113
2015	12,635	111
2016	11,394	128
2017	9,490	132
2018	4,982	131
2019	8,071	181
5-yr. avg. 2015-2019	9,314	137
10-yr. avg. 2010-2019	9,808	116

Effects of the Proposal

The majority of salmon taken by Federally qualified subsistence users in the Upper Copper River District are taken by fish wheel, rather than from boats. Dip netting, including from boats, takes place primarily under State permits (**Table 6**). Because boats are not widely used to fish for salmon under Federal subsistence permits on the Upper Copper River District, adopting this proposal would have little effect on the practice of dip netting from boats. For those fishers who do dip net from boats under Federal subsistence permits, this regulatory change could be bypassed by using a State subsistence permit in the Glennallen Subdistrict or a State personal use permit in the Chitina Subdistrict. However, the State personal use permit requires a fee and is limited to specific fishing periods announced weekly.

If this proposal is adopted, regulations for both of the State personal use and subsistence fisheries would be less restrictive in regard to the use of boats than under the Federal subsistence fishery on the Upper Copper River. Prohibiting use of dip nets from boats under both State and Federal regulations could alleviate some conflict between user groups. However, in the absence of State action, adopting this proposal would simply make Federal regulations more restrictive than State regulations, while not eliminating the practice of concern or contributing to conservation of salmon stocks.

Nonetheless, the proponent adds his voice to the testimony of other Federally qualified subsistence users who have previously expressed their concern regarding the long-term effects on salmon stocks of dip netting from boats in the Upper Copper River District. Local residents who have previously testified in opposition to this practice at meetings of the Federal Subsistence Board because it does not comport with their own traditional subsistence practices. However, Title XIII of ANILCA recognizes

that subsistence practices and technologies have always reflected the value of efficiency, and continue to evolve over time.

OSM CONCLUSION

Oppose Proposal FP21-13.

Justification

The majority of salmon taken by Federally qualified subsistence users in the Upper Copper River District are taken by fish wheel, rather than with dip nets from boats. Because dip netting from boats is not a widely used technique to fish for salmon under Federal subsistence permits on the Upper Copper River District, adopting this proposal would have little effect on the practice of concern. This proposal would make Federal subsistence regulations pertaining to dip netting more restrictive than State subsistence and personal use regulations for the Upper Copper River District. It would also not have the desired conservation effect; users could continue to dip net from boats under State regulations in the Glennallen subsistence and Chitina personal use fisheries.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Oppose FCR21-13. The Council agreed with the rationale provided by OSM in its analysis and felt that this proposal would be an unnecessary restriction on Federally qualified subsistence users. This would limit how those users could harvest their fish and ‘drifting’ could make harvesting more efficient and less time-consuming. Testimony revealed observations of several State subsistence users dipnetting from a boat with a commercial operator. This proposal would affect only a small number of Federal subsistence users, creating a burden on the small group of Federal subsistence users, and the resulting restrictions would be contrary to the intent of ANILCA.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support FCR21-13. The Council noted that this proposed regulatory change is getting a lot of support from Federally qualified subsistence users because fishing from boats has long-term effects on the way fishing is done in the Copper River. The Council said that fishing from boats is becoming increasingly competitive and provides an advantage over traditional methods and means, such as dipnetting from shore and using fishwheels. This is a typical situation in a fishery where people have discovered a new method of fishing; once it becomes popular because of its success and advantages, it will overturn long-term established fisheries practices. Next we’ll be dealing with too many boats on the river. It will become dangerous to people, and the conflicts will start with too many boats trying to fish at the same time. The Council believes that the Federal Subsistence Board should take the lead on this issue by recognizing the negative effects of dipnetting from boats on Federally qualified subsistence users and use its leverage to convince the State to also pass this regulation. Additionally, the Council said that this type of fishing does not give fish a place to hide and rest without being interrupted and captured, which is an issue due to their long migrations.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-13: This proposal prohibits fishing with dip nets from boats or crafts floating in the river in the Upper Copper River District.

Introduction: Dip nets have been a subsistence or personal use gear type in the Upper Copper River District since before statehood. Dip nets have been legal gear for salmon in the Glennallen Subdistrict since the subdistrict was established in 1977, with the exception of 1979–1983. Permit holders may only use one gear type (either fish wheel or dip net) and must declare the gear type when obtaining their permit.

The number of state dip net permits issued in the Glennallen Subdistrict subsistence fishery has steadily risen since 2004 while the number of fish wheel permits has decreased. In 2019 (the first year permit holders were required to report harvest from shore or boat), 30% of the reported sockeye and 36% of the reported king salmon harvest was taken by dip nets fished from boats, 16% and 5% respectively by dip nets fished from shore, and 40% and 48% by fish wheels. In the Chitina Subdistrict state personal use salmon dip net fishery an average of 21% of sockeye salmon and 26% of king salmon were harvested from boats from 2001–2019. During this same period 17% of all permits were fished from boats versus from shore. Harvest in both these fisheries has been within sustainable limits in every year.

The Glennallen Subdistrict encompasses approximately 125 miles of the mainstem Copper River (outside the Wrangell-St. Elias National Park boundary). Public shoreline access to the Glennallen Subdistrict is limited to about 1.5 miles of unencumbered state land along the east riverbank above the Chitina-McCarthy Bridge. This shoreline access provides limited dipnetting sites and is one of the most concentrated areas used by fish wheels in the Glennallen Subdistrict, which generally occupy the ½ mile upstream of the Chitina-McCarthy Bridge. There is also extremely limited access directly under the Chitina-McCarthy Bridge, near the Chitina airport (also shared by fish wheels), and walk-in access (2 miles) at the mouth of the Klutina River.

Harvest in the Upper Copper River District is not correlated with the number of sockeye salmon reaching the Gulkana Hatchery. The number of hatchery brood and excess sockeye salmon also appears unrelated to annual sonar counts and overall sockeye salmon escapement in the Copper River drainage. The only correlation with Gulkana Hatchery brood and excess escapement is the percent fry to smolt survival from the Crosswind Lake rearing site.

Impact on Subsistence Users: Disallowing the use of dip nets from boats would decrease fishing opportunity in the Upper Copper River District.

Impact on Other Users: None.

Opportunity Provided by State:

5 AAC 01.620 Subsistence Finfish Fishery—Prince William Sound Area-- Lawful gear and gear specifications

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

(b) Salmon may be taken only by the following types of gear:

(1) In the Glennallen Subdistrict by fish wheels or dip nets;

5 AAC 77.591. Personal Use Fishery—Prince William Sound Area—Copper River Personal Use Dip Net Salmon Fishery Management Plan

(c) Salmon may be taken only with dip nets.

Conservation Issues: There are no conservation issues related to the way subsistence and personal use permit holders harvest fish with dip nets.

Enforcement Issues: This would create an additional burden on enforcement personnel as this restriction would create inconsistencies between State and Federal regulations.

Recommendation: The Alaska Department of Fish and Game **OPPOSES** prohibiting dipnetting from a boat because it unnecessarily reduces subsistence opportunity with no management or biological benefit and creates inconsistencies between State and Federal regulations.

WRITTEN PUBLIC COMMENTS



Ahtna Intertribal Resource Commission

dba/Copper River-Ahtna Inter-Tribal
Resource Conservation District
PO Box 613
Glennallen, Alaska 99588
907-822-4466
connect@ahtnatribal.org

July 2, 2020

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

Dear Federal Subsistence Board Members,

In 2011, after many years of preparation, a group of Ahtna leaders formed the Ahtna Intertribal Resource Commission (AITRC) to address the compelling need for tribal stewardship of our traditional fish, wildlife and plant resources that have been degraded by nearly three centuries of impact and competition. Because of AITRC's focus on developing fish and wildlife management programs for Ahtna traditional lands, our efforts are contributing to enhanced food security and food sovereignty for residents of the Copper Basin. The subsistence fisheries on the upper Copper River play an important role in the food security of most Ahtna tribal members, as well as in that of other federally-qualified subsistence users.

Toward its goal of supporting the continued availability of salmon for customary and traditional uses, AITRC would like to offer comments on the following proposals:

FP 21-11

AITRC supports FP 21-11. Based on our ongoing research and participation in the fisheries regulatory and management processes, we feel strongly that there is a need for more timely harvest data in the upriver subsistence and personal-use fisheries. Moreover, this is a topic about which we have found broad consensus among both tribal and non-tribal federally-qualified subsistence fishers within the region.

As part of its ongoing social science research through a Partners for Fisheries Management Program (PFMP) grant from the US Fish and Wildlife Service, AITRC has used participatory, ethnographic methods to document management, regulatory and conservation concerns in Copper River fisheries. Concern about the health of salmon stocks has been a common theme emerging from both subsistence fishers and some biologists who have participated in this research, as has anxieties about their future availability for customary and traditional uses. These concerns are accentuated by recent events such as historically low sockeye abundance in 2018 and 2020, and clear trends of decline in Chinook abundance.

Although biologists do not know the reasons for these declines, many enrollees in AITRC's member tribes have expressed strong concern about steadily increasing harvest levels in upriver subsistence and personal-use fisheries. Many of these concerns have been specifically directed toward the state fisheries, but gaining an accurate picture of in-season harvest levels would be best accomplished if in-season reporting were applied universally across all state and federal

Tsin'aen

subsistence and personal-use fisheries. Companion proposals submitted to the State Board of Fisheries address the state-managed fisheries.

While this proposal would require more frequent reporting, it would not require federally-qualified subsistence users to report any more data on their harvests than is required currently. Federal subsistence users must already track their daily harvest levels, by species, and report these totals at the end of each season. If this reporting were done using an online app, it would not require any more effort than is required under the current system.

Timely reporting would probably produce better-quality data than does end-of-season reporting. A common problem with the current system is that subsistence fishers often fail to keep their permits up-to-date, waiting to fill them out till the end of the year when they are due, and guessing about their daily catch totals. During years of low abundance, these data could provide more granular data on the fishery, enabling more adaptive management decision-making. They also might help to build trust and consensus between fisheries management and an interested local public.

FP 21-12

AITRC is in support of proposal FP 21-12, which would ban monofilament-type dipnets between June 1st and August 15th. While Chinook salmon run sizes have fluctuated, they have shown a clear trend of decline during the past 20 years (Savereide et al. 2018). Biologists are investigating the reasons for these declines; multiple factors are likely implicated in these changes, including changing ocean conditions. Even so, simple in-river conservation measures would help to maximize the survival rates of Chinook salmon during spawning migration, while still maintaining in-river harvest opportunities.

Both dipnets constructed with inelastic seine-style mesh, and the traditional Ahtna style made with inelastic mesh, are effective at catching salmon. Inelastic, seine-style nets are widely available and are no more expensive than monofilament-type nets. This proposal would not reduce opportunity, and would have no effect on the number of Chinook salmon federally-qualified dip net fishers would be allowed to retain each year.

This proposal would promote greater survival rates among Chinook salmon caught in nets and then released back into the river. These releases occur frequently with Chinook salmon, both when dip net fishers have exceeded their seasonal limits, and when fishers voluntarily release Chinooks due to conservation concerns. Salmon are far more likely to become severely entangled in monofilament/multifilament nets than in nets with inelastic bags. As the same kind of mesh material used in gillnets, monofilament nets are designed to catch fish on the jaws, gill-plates, fins and other protruding areas of the fish, as well as to stretch and become tightly girdled around their abdomens. These entanglements can cause direct injuries to the salmon (e.g. split tail-fins, broken gill-plates, abrasion), and at the very least, it can make untangling salmon from these nets a far longer and more difficult process, especially for inexperienced fishers. Longer time out of the water leads to increased stress and greater likelihood of mortality. Inelastic-type dipnets, on the other hand, are far more likely to merely enclose the salmon without causing excessive entanglement or injury.

One slight modification to this resolution should be considered: as it is currently worded, this resolution could be interpreted as prohibiting the rigid dipnets that are customary traditional to

Ahtna fishers (commonly made of chicken-wire nowadays). Because of their rigidity, these traditional-type nets do not cause entanglement. Accordingly, the resolution should contain language specifically allowing these, such as by removing the word “braided” from the proposed regulation:

“You may not use a dipnet that is rigged with monofilament or multifilament mesh before August 15th (when the majority of the Chinook run has passed into the upper Copper River). Before this time, your dipnet must be rigged with ~~braided~~, inelastic mesh.”

FP 21-13

AITRC strongly supports proposal FP 21-13, which would ban dipnetting from boats. We feel that the dramatic increase in this method’s popularity (Botz and Somerville 2017) poses significant conservation concerns.

Salmon often delay their upriver migration during high water events, resting in deep parts of the river and/or areas such as eddies where the current is less intense. During these times, catch per unit effort for fish wheels and onshore dipnetters tends to be quite low. However, dipnetters in boats are able to move throughout the river and target these resting areas. On the middle Copper River (i.e. Chitina – Gulkana), subsistence fishers have observed that when the water begins to recede, large pulses of fish have often followed bringing very good fishing during the following days. During the past several years, local/traditional knowledge observations suggest that these pulses of fish have not been occurring in the same way. Although research into this topic is warranted, a very likely explanation for this change is that boat-based dip netters are catching much of the fish that are resting in these deep pockets.

AITRC’s PFMP research and activities have shown that there is significant opposition to the practice among Copper Basin locals. For one longtime subsistence fisher and Ahtna elder, made the following observations during our 2019 interview with him:

[...] Not only do they get ‘em from the shore and now they’re getting ‘em in the middle of the river. And they’re using boats to do it. And the boats are just like, you’re moving. You’re not like you’re standing still waiting for the fish to come to you—you’re going down the river getting ‘em as they’re coming up. And all you’re doing is hanging the net out the w—out the way, but. Not really a work—just to sit there and float and hang onto a net. And then and—and then, they’re right down the middle of the river so right-right outside the fishwheel.

As this elder points out, the mobility of boat dipnetters gives them a competitive advantage over both fishwheel users and dipnetters who fish from shore. Both fishwheel fishers and onshore dipnetters have reported disruptive encroachment by parties that are dipnetting from boats. Because fishwheels are large and stationary, they have no way of avoiding dipnetters from boats who are inconsiderate and come too close. This can also be an issue for dipnetters who are fishing from shore, as onshore fishing sites are limited in some parts of the river.

Dip netting salmon from boats is not a customary or traditional use of the resource. In traditional times, Ahtna fishers dipnetted from shore or from platforms that extended into the river (Simeone and Valentine 2007), but did not dipnet from boats floating in the river. Even among non-native settlers, dip netting from boats does not have a long enough history to be considered a

customary or traditional use of the resource. Rather, this is a practice that has only become widespread during the past one or two decades. Although this is not, specifically, a difference in the equipment used to harvest salmon, it represents a dramatic change in the way in which the fishery is prosecuted. Boats can confer a competitive advantage over fishers who fish from shore, as noted above, but they are expensive to own and operate, and are thus not available to many federally-qualified subsistence fishers.

FP 21-14

AITRC supports FP 21-14, which would ban fish finders from boats that are fishing on the Copper River. Obviously, if FP 21-13 is approved, this proposal will not be necessary. However, if FP 21-13 is voted down, the board should at least the use of devices that enable boat-based fishers to target schools of fish. This targeting contributes to the likely overfishing of salmon during high-water events, as mentioned above.

Fish finders are a technology that is in no way customary or traditional to any of the fisheries on the upper Copper River. This proposed regulatory change would be unlikely to have negative impacts on many federally-qualified subsistence users, as most experienced locals already know where to find schools of fish, anyway. Restricting fish-finders would merely encourage inexperienced fishers to develop the knowledge and experience that are requisite for fishing on a swift, dangerous river such as the Copper.

Along these lines, we have previously heard the objection to banning fish finders; that they are needed to watch for rocks and sandbars on the Copper River. We are somewhat skeptical of this explanation, as the Copper is a swiftly-flowing river, and most fish finders are not reliable for spotting rocks or other objects in time to avoid them. Learning to read river conditions (i.e. through direct observation) is by far the safest and most reliable way of avoiding these hazards. Again, fishers who depend on fish-finders to avoid running aground may lack the necessary experience to safely fish on a dangerous river like the Copper. Rather than increasing safety for these inexperienced fishers, overreliance on these devices diverts their attention away from actually observing the river.

Thank you for the opportunity to comment on these proposals.

Tsin'aen,


Karen Linnell
Executive Director

References:

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Fw: [EXTERNAL] comments on copper river proposals

From: michael mahoney <mjmahoney22@hotmail.com>
Sent: Thursday, July 2, 2020 12:33 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] comments on copper river proposals

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

Thank you for the opportunity to comment.

FP 21-10

Given the concerns that biologists, managers and stakeholders have with the king and sockeye salmon abundance on the copper river, I don't think that it would be a good idea to open up a new fishery on the lower copper river in order to target these fish (especially Kings). Therefore, I am opposed to it. Cordova residents have ample opportunity to harvest salmon resources in the area. One excellent king salmon harvest opportunity, which is utilized by many residents is the remote release site at fleming spit.

FP 21-11

I cannot think of any downside to this proposal. I support it. With modern communication options, there is no reason why this timely reporting would be too burdensome to the user. Good in-season management requires current data, and this is the only way for that to happen. It is time to give our managers the tools they need to protect this fishery.

FP 21-12, 13, 14

I think that all of these changes would be helpful in protecting our King salmon and I support them. All of these practices are not customary and traditional, and have resulted in a much higher efficiency levels of harvest. With the use of boats, and sonar equipment in particular, there is a corresponding profit motive from the guide services who profit from this.

Sincerely,
Mike Mahoney
PO Box 2416
Cordova, AK 99574

Fw: [EXTERNAL] Prince William Sound proposals

From: Thea Thomas <thea@ctcak.net>
Sent: Thursday, July 2, 2020 7:19 AM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Prince William Sound proposals

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

Dear Mr. Matuskowitz,

I am a 40 year resident of Cordova, Alaska and a commercial fisherman. Over the years, i have served on several boards and presentedly am on the board of the Copper River/Prince William Sound Marketing Association and the Prince William Sound Science Center.

I am strongly opposed to proposal FP21-10. Subsistence users have more than adequate opportunity through the State of Alaska subsistence openers which occur 3 days a week, and the federal subsistence opportunity on the Eyak River.

I strongly support proposal FP21-11, FP21-12, FP21-13 and FP21-14. These proposals are important to limit over harvest in the Chitina dipnet fishery and to acquire timely data on the harvest.

Thank you

Thea Thomas
PO BOX 1566
Cordova, AK 99574
907 424 5266

June 29, 2020

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

Mr. Matuskowitz:

Enclosed are Ahtna Tene Nene' comments on 2021-2023 Federal Fisheries proposals. Please record them as public comments for Southcentral Subsistence Regional Advisory Council's and Eastern Subsistence Regional Advisory's recommendation, and to the Federal Subsistence Board for final decision making and action.

Sincerely,

David Stickwan
for
John Dye
Mr. John Dye,
Vice Chair

Page 1 of 12

FP21-13

1. Kirk Wilson
Hco1 box 1960
Glennallen, AK 99558
907.320.1016
kirkakfish@yahoo.com

2. What regulations you wish to change. Include management unit number and species. Quote the current regulation if known. If you are proposing a new regulation, please state, "new regulation."

50 CFR 100.27(11)(xi) - New regulation

3. How should the regulation read? Write the regulation the way you would like to see it written in the regulations.

If you are using a dip net, you must fish from shore, from islands in the river, or from stationary objects connected to shore. You may not fish from boats or craft floating in the river.

4. Why should this regulation change be made?

Many Copper Basin residents with intensive local knowledge of salmon ecology have raised concerns about the health of Copper River salmon stocks. The Gulkana Hatchery has not had enough brood-stock to meet its eggtake goals since 2014. Although overall escapement levels have been reasonable in the Copper drainage, very little tributary-by-tributary data are collected. Smaller stocks can easily be damaged by overharvest.

Dipnetting from boats in the subsistence fishery raises some particular concerns. Wild salmon stocks tend to hole up in deep areas and rest on their way up the river, especially during high water. Fishermen who fish from boats are able to target salmon that are concentrated in these areas. The increased popularity of dipnetting from boats since 2010, combined with the high numbers of fish that each subsistence dipnetter can harvest, could be contributing to the depletion of some smaller stocks.

5. You should provide any additional information that you believe will help the Federal Subsistence Board in evaluating the proposed change.

Comments:

We support FP21-13 to fish from shore, from islands in the river, or from stationary objects connected to shore.

Fishing from a boat or other craft floating in the Copper River has an advantage over dip netting from shoreline. Fishing from a boat that is moving downriver is essentially trolling for fish. More

salmon could be harvested in the Copper River using this technique to fish. Fishing in areas where salmon hold up to rest also enables fishermen to harvest an abundance of salmon at one time.

Enforcement officers cannot be out on the Copper River patrolling at all hours to watch dip netters who fish from a boat or other craft. More salmon could be harvested than are reported.

Historically, Ahtna People dip netted from a platform to harvest salmon, it worked for us, and it will work for other people to harvest salmon from shore too.

Bonnie Yazzie
PO Box 67
Chitina, AK 99566

July 2, 2020

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

To the board:

I am from an Ahtna family who has depended on Copper River salmon since time immemorial. Although I lived away from the region for a long time until fairly recently, we still received salmon every year from our relatives. I work for Native Village of Chitina as an Office/Accounting Assistant, and serve as Secretary/Treasurer on the Ahtna Intertribal Resource Commission Board of Directors.

FP 21-11: support. I think that we need to know exactly what's being taken in order to accurately manage the fishery. This would help keep people more honest and in-check. In some of the Kenai Peninsula clam fisheries, they have checkpoints to check people's permits and see how many clams people have dug. It helps keep people honest. But when dipnetters come here to Chitina there's no check-point. We have more than 10,000 people come through here each year and nobody is monitoring. The very least we can do is require in-season reporting.

I also support FP 21-12, to ban monofilament dipnets during king season.

FP 21-13: support. Dipnetting from a boat is not a customary or traditional way of getting salmon. They didn't do it back in the early 1900s. Back then, we actually made our own dipnets out of alder. We didn't get on boats and dipnet for salmon. The people nowadays who are dip netting from boats are getting all their salmon easy. They come down by the thousands and all dipnet at the same time, and the people who live up the river are not getting their salmon. Last year was a good example. Managers opened the dipnetting in June and hardly anybody got salmon in their fishwheels after that. To me it's taking unfair advantage of the resource. They're not dipnetting; they're trawling. They're just holding their dipnets in the water and drifting down the stream and throwing the fish in their boats. I've heard of dipnetters in boats limiting out this year, while many of us with fishwheels are struggling.

FP 21-14: support. In the past, boaters with fish-finders have used the excuse that they need the fish-finders to navigate the river channel. These fishers need to learn the river channel. Using fish-finders to find salmon is taking unfair advantage, once again.

Thank you for your consideration.

Sincerely,



Bonnie Yazzie

FP21-14 Executive Summary	
General Description	Proposal FP21-14 requests that the Board prohibit use of onboard devices that indicate bathymetry and/or fish locations (fish finders) while fishing from boats or other watercraft in the Upper Copper River. <i>Submitted by: Kirk Wilson.</i>
Proposed Regulation	<p>§ _____.27(e)(11) <i>Prince William Sound Area</i></p> <p>(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:</p> <p style="text-align: center;">***</p> <p style="text-align: center;">(H) While you are fishing from a boat or other watercraft, you may not have onboard any device that indicates bathymetry and/or fish locations (i.e. fish finders).</p>
OSM Conclusion	Oppose
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	Oppose
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	Support
Interagency Staff Committee Comments	The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.
ADF&G Comments	Oppose
Written Public Comments	5 Support

**STAFF ANALYSIS
FP21-14**

ISSUES

Proposal FP21-14, submitted by Kirk Wilson of Glennallen, requests that the Federal Subsistence Board (Board) prohibit use of onboard devices that indicate bathymetry and/or fish locations (fish finders) while fishing from boats or other watercraft in the Upper Copper River.

DISCUSSION

The proponent states that the use of electronic devices that indicate bathymetry and/or fish locations (i.e. fish finders) is contributing to unsustainable harvest practices on the Upper Copper River. According to the proponent, these devices enable fishers to locate and target specific holding areas in the river, which may serve as pooling areas for sensitive stock. It is the proponent’s belief that if we do not address this issue, we will continue to see both wild and Gulkana Hatchery brood-stocks fail to meet objectives.

Existing Federal Regulation

§____.27(e)(11) Prince William Sound Area

(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:

Proposed Federal Regulation

§____.27(e)(11) Prince William Sound Area

(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:

(H) While you are fishing from a boat or other watercraft, you may not have onboard any device that indicates bathymetry and/or fish locations (i.e. fish finders).

Existing State Regulation

No relevant existing regulation.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters comprise those waters within and adjacent to the exterior boundaries of Wrangell-St. Elias National Park and Preserve (**Figure 1**).

The Upper Copper River District is comprised of the Chitina Subdistrict and the Glennallen Subdistrict. The subdistricts are geographically defined in the same way in Federal and State regulation. The Chitina Subdistrict consists of all waters of the mainstem Copper River downstream of the downstream edge of the Chitina-McCarthy Road Bridge to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek, as designated by Alaska Department of Fish and Game (ADF&G) regulatory markers, a distance of approximately ten miles. The Glennallen Subdistrict consists of all waters of the mainstem Copper River from the mouth of the Slana River downstream to the downstream edge of the Chitina-McCarthy Road Bridge, a distance of approximately 120 miles.

Customary and Traditional Use Determinations

Glennallen Subdistrict

Rural residents of the Prince William Sound Area and residents of Cantwell, Chickaloon, Chisana, Dot Lake, Dry Creek, Healy Lake, Northway, Tanacross, Tetlin, Tok, and those individuals living along the Alaska Highway from the Alaskan/Canadian border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along Nabesna Road have a customary and traditional use determination for salmon in the Glennallen Subdistrict of the Upper Copper River District.

Chitina Subdistrict

Rural residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road have a customary and traditional use determination for salmon in the Chitina Subdistrict of the Upper Copper River District.

Regulatory History

In 1999, regulations were adopted by the Board when promulgating the initial Federal regulations for fish in *navigable* waters; residents of the Prince William Sound Area were initially listed as having customary and traditional use of salmon in the Glennallen Subdistrict (64 Fed. Reg. 5. 1276-1313 [January 8, 1999]). In 2001, the Board adopted Proposal FP01-15, which established a customary and traditional use determination for salmon in the Chitina Subdistrict. The same year, the Board also adopted a modified version of Proposal FP01-16, submitted by the Copper River Native Association,

which defined seasonal harvest limits as requested, and created a Federal subsistence fishing season from May 15 to September 30.

In 2002, the Board adopted Proposal FP02-17, submitted by Wrangell-St. Elias National Park Subsistence Resource Commission, which requested changes to regulations in addition to a review of eligible subsistence fishers for the Upper Copper River district. The proposal was split into two proposals; Proposal FP02-17a added communities to the customary and traditional use determinations for the Glennallen and Chitina Subdistricts. Proposal FP02-17b allowed those with customary and traditional use determination to obtain a permit for each subdistrict in the same year. Additionally, FP02-17b ensured that combined harvests from both subdistricts would not exceed the harvest limit set for the Glennallen Subdistrict, and allowed for multiple gear types to be specified on each permit. In 2002, the Board created a Federal permit requirement for the Upper Copper River District administered by the National Park Service.

In 2006, the Board took no action on Proposal FP06-20, which was submitted by the Ahtna Tene Nene' Subsistence Committee and requested that fish wheels in the Upper Copper River District be equipped with a live box unless checked every 4 hours. The Southcentral Alaska Subsistence Regional Advisory Council opposed this proposal, and the Eastern Interior Alaska Subsistence Regional Advisory Council recommended no action. The same year, the Board considered Proposal FP06-21, submitted by Ahtna Tene Nene' Subsistence Committee, requesting that fish wheels in the Upper Copper River District be checked and all fish removed every 24 hours. The Southcentral Alaska Regional Advisory Council supported the proposal with modification to require that fish wheels in the Upper Copper River District be checked at least every 48 hours and all fish removed. The Eastern Interior Alaska Subsistence Regional Advisory Council opposed the proposal. The Board adopted Proposal FP06-21 with modification to require fish wheel operators to check their fish wheels every 10 hours.

That year the Board also considered Proposal FP06-22, submitted by the Ahtna Tene Nene' Subsistence Committee, which requested that fyke nets be allowed to harvest up to 1,000 salmon in Tanada Creek upstream of the weir and that incidental harvests of other fish be allowed. The Board adopted this proposal with modification recommended by the Southcentral Alaska Regional Advisory Council to limit use to only one fyke net after consultation with in-season manager, to require that the subsistence user be present during use, and to ensure that Chinook Salmon incidentally caught be released unharmed.

In 2007, the Board considered and rejected Proposal FP07-14, which was submitted by Cris Grimwood of Cordova. This proposal requested a three month opening in the lower Copper River using dip net or rod and reel with eggs. It was opposed by the Southcentral Alaska Regional Advisory Council. The same cycle, the Board considered and rejected Proposal FP07-15, submitted by the Ahtna Tene Nene' Subsistence Committee, which would have required that fish wheels be removed to above the high water mark at the end of the season. Both the Southcentral Alaska and the Eastern Interior Alaska Regional Advisory Councils opposed. Finally, in 2006, the Board considered and rejected FP07-16, submitted by the Ahtna Tene Nene' Subsistence Committee, which would have required that fish

wheels be at least 200 feet apart. The Southcentral Alaska Regional Advisory Council opposed the proposal, and the Eastern Interior Alaska Regional Advisory Council deferred to the home region.

In 2019 the Board adopted Proposals FP19-15 and FP19-16, both of which were submitted by Wrangell-St. Elias National Park and Preserve. Proposal FP19-15 requested that requirements to check fish wheels on the Upper Copper River be transferred from the wheel owner to the operator. Proposal FP19-16 clarified regulatory language, changing specifications for permits so that one unit of gear *per person* could be operated at one time, rather than one unit of gear at one time. The Southcentral Alaska and the Eastern Interior Alaska Subsistence Regional Advisory Councils both supported these proposals.

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

State regulations allow subsistence fishing in the Glennallen Subdistrict but not in the Chitina Subdistrict. The Chitina Subdistrict is designated as a personal use fishery. Under State regulations, permits can only be issued for either the Glennallen Subdistrict salmon subsistence fishery or the Chitina Subdistrict salmon personal use fishery in the same year, but not both. Fish wheels or dip nets are allowed in the Glennallen Subdistrict but not both in the same year, and only dip nets are allowed in the Chitina Subdistrict under State regulations. Fish finders or bathymetry devices are not currently addressed in State subsistence or personal use regulations, either under general provisions, or specific to the Upper Copper River District.

Current Events

In 2017, the State Board of Fisheries (BOF) considered but rejected Proposal 13 for the Glennallen Subdistrict, submitted by the Ahtna Tene Nene' Customary and Traditional Use Committee. If approved by the Board, this proposal would have prohibited dip netting from boats in State subsistence and personal use fisheries of the Upper Copper River District. Use of fish finders and dip nets from boats (submitted as separate proposals in both the state and Federal regulatory cycles) are interconnected issues, in that fish finders may be used during periods of high water to locate areas likely to serve as pooling areas for salmon, which are then fished efficiently with dip nets from boats.

In the original proposal to the BOF, the proponent stated,

“Subsistence fishermen are catching salmon away from the shoreline of the Copper River, salmon rest in holes away from the shoreline in high water and are susceptible to being easily caught in dip nets from boats using electronics. Once a holding hole is located, a boat with electronics makes multiple passes until the fish are cleaned out. When the water drops, there are no fish left to continue to the spawning beds.... If this keeps up, our Chinook [Salmon]

Rationales for support and opposition were offered by members of the public and the BOF during discussion of the proposal, and are of relevance for consideration of the current proposal to prohibit use of fish finders under Federal subsistence permits. One member of the public in opposition to prohibiting fish finders stated that their technological capacity has been overstated:

“We will occasionally see fish on the sonars, but we use the sonar in large part to determine whether we are going to strike bottom, abandoned nets, fish wheels...navigating the Copper River is extremely difficult and the sonar and depth finders that we use to keep us safe” (Alaska Board of Fisheries 2017: np).

Furthermore, this opponent of the proposal noted that every person who fishes in the Glennallen Subdistrict—whether from shore or by boat—tries to find the “best spot” for dip netting, contextualizing boat fishing practices along a continuum of technology used to efficiently access salmon.

In April 2019, a member of the public referred to the 2017 BOF proposal and discussion in her testimony to the Federal Subsistence Board:

“The technology has improved and their sonar is getting clearer and clearer, so they're starting to capture more and be able to count what's happening. I think there's additional information needed and that was one of the things that came out of our...conference. We need to know what's happening in the spawning beds. [Fishers have been] using fish finders. We put in a proposal [to the Alaska Board of Fisheries] to stop that and that didn't fly because they said they were using it to watch for rocks” (FSB 2019:77).

The same member of the public emphasized that, as a Federally qualified subsistence user, she would like to see regulations reflect the conservation concerns of local users:

“So, for us...we need to manage for the resource and manage correctly and not over-liberalize it to where we're trying to keep up with the State. We should be setting a standard here. That's the way that we're looking at this and put a standard so that the State would have to try to match our standard, your standard on this river” (FSB 2019: 30).

A proposal similar to the one being considered in this analysis was submitted to the State in 2020, and will be considered at the March 2021 Alaska Board of Fisheries meeting along with other proposals for the Prince William Sound. The proposal was submitted by Kirk Wilson, Copper Basin Fish and Game Advisory Committee, and Karen Linnell, and would prohibit fish finders in the Upper Copper River District from June 1 to September 30.

2020 Fishery Update

The 2020 Copper River salmon passage was much weaker than expected with a cumulative Miles Lake Sonar estimate of 530,313 fish on July 29th, the last day of operation (ADF&G 2020e). The cumulative

passage estimate lagged behind the management object of 628,553 fish. Closures of both the commercial gillnet fishery at the mouth of the river and the Chitina Subdistrict personal use salmon dip net fishery were required to provide more fish towards the escapement (ADF&G 2020b, ADF&G 2020c).

Cultural Knowledge and Traditional Practices

Ahtna Athabascan people have harvested Sockeye, Chinook, and Coho Salmon in the Upper Copper River District for at least 1,000 years (Workman 1976). The presence of Upper Tanana Athabaskans fishing in the Upper Copper River was noted in 1885 and long-term kinship and trading ties between the Ahtna and Upper Tanana have been documented (Haynes et al. 1984). Sockeye Salmon are the most important species used in the area, followed by Chinook Salmon.

The Ahtna traveled to seasonal camps throughout their territory based upon resource availability. Fish camps were located on the Copper River and several major tributaries (De Laguna and McClellan 1981). Early June and July were the preferred time for fishing Sockeye Salmon runs headed for streams and lakes in the Upper Copper River, as this was the best time for making ba', or dried fish (Simeone and Kari 2002).

There are eight contemporary Ahtna villages (Mentasta Lake, Chistochina, Gakona, Gulkana, Tazlina, Copper Center, Chitina, and Cantwell), almost all of which are located near traditional fishing camps. Other communities situated near the banks of the Copper River include Slana, Gakona Junction, Nabesna, Willow Creek, Kenny Lake, and Tonsina. Salmon remain vital to the subsistence way of life for those living in the Upper Copper River Basin (Reckord 1983, Brady et al. 2013). Comprehensive subsistence surveys conducted by the ADF&G show that salmon comprise a majority of the annual harvest in most communities along the Copper River drainage (La Vine and Zimpelman 2014). Salmon made up 78% of the overall subsistence harvest in edible weight in Chitina in 2012, 68% of the overall subsistence harvest in Tazlina in 2013, and 66% of the subsistence harvest in Kenny Lake in 2012 (**Table 1**). The Upper Copper River District is easily accessible via the Richardson and Glenn Highways, and competition for resources is a main concern for local residents (Holen et al. 2015).

Ahtna fishing technology adapted to local conditions and salmon behavior. The waters of the Upper Copper River are fast and murky; fish cannot be seen as they travel up the river. The bottom of the river is rocky and uneven. Traditional Ahtna/Upper Tanana methods of harvesting salmon included basket dip nets (*ciisi*), platform fish weirs, funnel-shaped basket traps, and salmon spears or harpoons; fish wheels were introduced in the early 1900s, after which they became very popular and replaced some earlier fishing technologies (De Laguna and McClellan 1981).

Fish wheels are the predominant gear used by communities in the Upper Copper River Basin. For example, in 2013, Glennallen residents harvested 88% of their salmon (in edible weight) by fish wheel. Gulkana residents took 91% of their salmon harvest by fish wheel, and Tazlina residents took 88% of their salmon harvest by fish wheel (Holen et al. 2015). In contrast, the percent of the salmon harvest taken by dip nets by these communities was quite low, at 3.4% for Glennallen, 2% for Gulkana, and 3% for Tazlina (Holen et al. 2015).

Table 1: Salmon harvest by select communities with C&T for salmon in the Copper River (ADF&G 2020d).

Community	Survey year	Pounds of salmon per capita	Percentage of overall harvest comprised of salmon
Chitina	2012	191.59	78%
Tazlina	2013	102.14	68%
Kenny Lake	2012	93.61	66%
Gulkana	2012	91.69	64%
Copper Center	2010	129.25	61%
Chistochina	2009	94.22	58%
Glennallen	2013	56.97	58%
Gakona	2012	95.94	56%
McCarthy	2012	45.78	53%
Tonsina	2013	101.76	51%
Slana	2010	95.74	47%
Dot Lake	2011	44.16	37%
Mentasta Lake	2010	43.46	29%
Tok	2011	51.32	25%
Cantwell	2012	15.18	15%
Northway	2014	40.81	13%
Dry Creek	2010	17.23	12%

Biological Background and Harvest History

The Copper River supports multiple runs of salmon, but Sockeye Salmon (*Oncorhynchus nerka*) and Chinook Salmon (*Oncorhynchus tshawytscha*) are the two species primarily targeted in the Federal subsistence fisheries. Federally qualified subsistence users are restricted to three areas of the upper Copper River, the Chitina and Glennallen Subdistricts and the Batzulnetas area. Sockeye Salmon is the most abundant species, and is the main fish targeted by all user groups in both the Chitina and Glennallen Subdistricts. The 2019 estimated subsistence salmon harvest by Federally qualified subsistence users in the Glennallen Subdistrict was 15,873 Sockeye Salmon and 949 Chinook Salmon. The Sockeye Salmon harvest was below the 10-year average of 16,635 fish while the Chinook Salmon harvest was above the 10-year average of 730 fish (**Table 2**). A smaller number of salmon are harvested by Federally qualified subsistence users in the Chitina Subdistrict. The 2019 estimated subsistence salmon harvest by Federally qualified subsistence users in the Chitina Subdistrict was 4,451 Sockeye Salmon and 83 Chinook Salmon. Both Sockeye and Chinook Salmon harvests were above the 10-year average of 2,376 Sockeye Salmon and 31 Chinook Salmon (**Table 3**).

Salmon are harvested in the State subsistence fishery in the Glennallen Subdistrict in greater numbers than Federal subsistence harvest. The estimated subsistence salmon harvest by State salmon dip net

and fish wheel permit holders in the Glennallen Subdistrict within the last 10-years (2010-2019) averaged 64,320 Sockeye Salmon and 2,569 Chinook Salmon (**Table 4**). Additionally, salmon are harvested from the Chitina Subdistrict personal use dip-net fishery with a 10-year average harvest of 148,458 Sockeye salmon and 1,193 Chinook Salmon (**Table 5**).

The largest harvest of Copper River-bound Sockeye and Chinook Salmon occurs in the Copper River District marine waters near the mouth of the river during the commercial drift net fishery. Over the last 10-years (2010-2019) an average of 1,303,861 Sockeye Salmon and 13,265 Chinook Salmon were harvested in the Copper River District by the commercial fishery (ADF&G 2018, 2019, Vega 2018). In addition to the commercial fishery, a State subsistence drift gillnet fishery also occurs in the Copper River District (ADF&G 2020a, Vega 2018). The estimated subsistence salmon harvest by State subsistence salmon permit holders in the Copper River District averaged 3,231 total salmon for the previous 10-year period (2009-2018) of which 2,800 were Sockeye Salmon and 431 were Chinook Salmon (Somerville 2020).

The ADF&G relies on the passage estimates provided by adaptive resolution imaging sonar (ARIS) units at Miles Lake to manage the commercial fishery and provide for upriver escapement and fishery allocation. Over the 10-year (2010-2019) spawning escapement estimates have been within or have exceeded the current sustainable escapement goal of 360,000–750,000 Sockeye Salmon as estimated by Miles Lake sonar (ADF&G 2020d, Vega 2018). The 2019 Sockeye Salmon escapement estimate for the Copper River was 741,771 fish (Somerville 2020).

Over the 10-year period (2010-2019), Chinook Salmon escapement estimates have ranged from a low of 12,485 in 2016 to a high of 42,204 fish in 2018 (Somerville 2020, Vega 2018). In 2010, 2014 and 2016 escapement estimates were below the sustainable escapement goal (SEG) of 24,000 Chinook Salmon mandated in the State’s management plan. In 2017, the SEG was reached through a cooperative effort, pre-season management actions directed at Chinook Salmon conservation. The State restricted its upriver subsistence fishery and closed both the upriver sport and the Chitina personal use fisheries, and the Federal in-season manager issued Chinook Salmon emergency special actions in the Upper Copper River District, delaying the season start date for the Federal subsistence fisheries and reducing the Federal subsistence Chinook Salmon harvest limit for the gear types of dip net and rod and reel (the gear types that would allow selective release of live fish) (ADF&G 2017, FSB2017). These early-season 2017 restrictions were rescinded after abundance assessments indicated adequate escapement to meet the SEG. The 2019 Chinook Salmon escapement estimate for the Copper River was 36,627 fish, which is above the 10-year (2010-2019) average escapement of 27,413 Chinook Salmon (Somerville 2020, Vega 2018).

Table 2: Estimated harvest of Sockeye, Chinook and Coho Salmon by Federally qualified subsistence users in the Glennallen Subdistrict 2010 - 2019 (Sarfin 2020, pers. comm.).

Glennallen Subdistrict Federal subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	269	88	12,849	342	73
2011	277	88	14,163	799	60
2012	275	92	14,461	403	85
2013	273	89	15,834	372	27
2014	315	91	21,614	439	25
2015	325	92	24,695	416	14
2016	320	83	15,884	446	11
2017	338	85	15,691	468	1
2018	335	91	15,287	2662	0
2019	343	90	15,873	949	0
10-yr avg	307	89	16,635	730	30

Table 3: Estimated harvest of Sockeye, Chinook and Coho Salmon by Federally qualified subsistence users in the Chitina Subdistrict 2010 - 2019 (Sarfin 2020, pers. comm.).

Chitina Subdistrict Federal subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	92	86	2399	20	38
2011	85	86	2059	15	9
2012	89	94	1427	6	9
2013	99	91	2199	19	9
2014	113	95	1636	15	72
2015	111	93	2404	14	15
2016	128	81	1925	20	41
2017	132	80	1828	15	9
2018	132	92	3430	100	31
2019	181	90	4451	83	22
10-yr avg	116	89	2376	31	26

Table 4: Estimated Harvest of Sockeye, Chinook and Coho Salmon in the Glennallen Subdistrict State subsistence fishery 2010 - 2019 (Somerville 2020, Vega 2018).

Glennallen Subdistrict State subsistence fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	1321	72	70719	2099	293
2011	1306	74	59622	2319	372
2012	1527	69	76305	2095	335
2013	1339	73	73728	2148	143
2014	1656	66	75501	1365	233
2015	1631	70	81800	2212	77
2016	1769	64	62474	2075	45
2017	1632	64	39859	2935	57
2018	1659	61	40806	5006	151
2019	1713	68	62384	3439	204
10-yr avg	1555	68	64320	2569	191

Table 5: Estimated harvest of Sockeye, Chinook and Coho Salmon in the Chitina Subdistrict State personal use fishery 2010 - 2019 (Somerville 2020, Vega 2018).

Chitina Subdistrict State personal use fishery					
Year	Permits Issued	Percent of Permits Returned	Estimated Sockeye Salmon Harvest	Estimated Chinook Salmon Harvested	Estimated Coho Salmon Harvested
2010	9970	61	138487	700	2013
2011	9217	62	128052	1067	1702
2012	10016	58	127143	567	1385
2013	10592	64	180663	744	797
2014	11717	61	157215	719	1129
2015	12635	62	223080	1570	841
2016	11394	55	148982	711	1182
2017	9490	65	132694	1961	715
2018	4982	61	77112	1274	1439
2019	8071	68	171252	2618	1042
10-yr avg	9808	62	148468	1193	1225

Effects of the Proposal

The majority of salmon taken by Federally qualified subsistence users in the Upper Copper River District are taken by fish wheel, rather than from boats. Because boats are not widely used to fish for

salmon under Federal subsistence permits on the Upper Copper River District, adopting this proposal would have little effect on use of fish finders in boats. For those fishers who do use boats equipped with fish finders for navigating the river and accessing salmon under Federal subsistence permits, this regulatory change could be bypassed by using a State subsistence permit in the Glennallen Subdistrict or a State personal use permit in the Chitina Subdistrict.

If this proposal is adopted, regulations pertaining to fish finders would be more restrictive under Federal regulations than in the State subsistence and personal use fisheries in the Upper Copper River District. Prohibiting use of fish finders under both State and Federal regulations could alleviate conflict between user groups. However, fish finders are used as aids to safely navigate the river, and prohibiting their use could pose a safety issue.

In the absence of State action, adopting this proposal would simply make Federal regulations more restrictive than State regulations, while not eliminating the practice of concern or contributing to conservation of salmon stocks.

OSM CONCLUSION

Oppose Proposal FP21-14.

Justification

Adopting this proposal would not lead to the proponent's desired conservation outcome, because fishing under Federal subsistence permits in the Upper Copper River District is dominated by fish wheels; fishing from boats is far less common. Furthermore, Federally qualified subsistence users could continue to use fish finders on boats under State regulations in both the Glennallen subsistence and Chitina personal use fisheries. If adopted, Federal subsistence regulations pertaining to use of this technology would be more restrictive than State subsistence or personal use regulations for the Upper Copper River District.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Oppose FCR21-14. The Council felt this restriction on the Federally qualified subsistence user could prohibit the user's ability to quickly and successfully harvest fish. The Council felt that if a conservation concern is determined for this area, then, per ANILCA, any restrictions should be placed on other user groups before the restriction is placed on the Federally qualified subsistence user. The Council also addressed the importance for all users on the river to learn to navigate the waters by 'reading' the river and not relying on bathymetry devices. The challenges of enforcement of this regulation were also discussed.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support FCR21-14. Fish returns over the last several years have been very poor; therefore, the Council supports this conservation minded proposal for the sake of future generations. The Council noted that, traditionally, subsistence users do not use fish finders while looking for fish. It is likely that fish finders will not do much good finding fish in a silty river like the Copper River. In addressing the public comments about river navigability, the Council suggested to use depth finders rather than fish finders because you need them when your boat goes at a speed of 35–40 miles per hour and you are in unfamiliar waters.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP21-14: This proposal prohibits the use of onboard devices that indicate bathymetry and/or fish locations (fish finders) while fishing from boats or other watercraft in the Upper Copper River.

Introduction: In anticipation of proposals coming from the public to the Alaska Board of Fisheries, interviews with boaters about these devices during the 2020 fishing season were conducted. Electronic fish finders (i.e. boat mounted sonars typically with GPS capabilities) in boats accessing either the Glennallen Subdistrict subsistence fishery or the Chitina Subdistrict personal use fishery are used for navigation and avoiding the ever-shifting silt bars in the Copper River. These devices were not used to locate fish because boat-mounted sonars are hampered by heavy silt and the fast current of the river. They are not an effective tool for locating and targeting salmon in the Copper River. Harvest in both these fisheries has been within sustainable limits in every year.

Impact on Subsistence Users: Removal of bathymetric devices will decrease safety for subsistence fishers fishing from boats.

Impact on Other Users: None.

Opportunity Provided by State: There are no relevant existing State regulations.

Conservation Issues: This proposed change in regulations will have no impact on conservation of Copper River salmon stocks.

Enforcement Issues: This would create an additional burden on enforcement personnel as it would misalign State and Federal regulations.

Recommendation: The department **OPPOSES** the removal of navigational devices on the Copper River. There is no evidence to support higher harvest rates for permit holders using this technology, because the heavily silted waters affect signal strength, their removal could affect boating safety, and creates inconsistencies between State and federal regulations.

WRITTEN PUBLIC COMMENTS



Ahtna Intertribal Resource Commission

dba/Copper River-Ahtna Inter-Tribal
Resource Conservation District
PO Box 613
Glennallen, Alaska 99588
907-822-4466
connect@ahtnatribal.org

July 2, 2020

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

Dear Federal Subsistence Board Members,

In 2011, after many years of preparation, a group of Ahtna leaders formed the Ahtna Intertribal Resource Commission (AITRC) to address the compelling need for tribal stewardship of our traditional fish, wildlife and plant resources that have been degraded by nearly three centuries of impact and competition. Because of AITRC's focus on developing fish and wildlife management programs for Ahtna traditional lands, our efforts are contributing to enhanced food security and food sovereignty for residents of the Copper Basin. The subsistence fisheries on the upper Copper River play an important role in the food security of most Ahtna tribal members, as well as in that of other federally-qualified subsistence users.

Toward its goal of supporting the continued availability of salmon for customary and traditional uses, AITRC would like to offer comments on the following proposals:

FP 21-11

AITRC supports FP 21-11. Based on our ongoing research and participation in the fisheries regulatory and management processes, we feel strongly that there is a need for more timely harvest data in the upriver subsistence and personal-use fisheries. Moreover, this is a topic about which we have found broad consensus among both tribal and non-tribal federally-qualified subsistence fishers within the region.

As part of its ongoing social science research through a Partners for Fisheries Management Program (PFMP) grant from the US Fish and Wildlife Service, AITRC has used participatory, ethnographic methods to document management, regulatory and conservation concerns in Copper River fisheries. Concern about the health of salmon stocks has been a common theme emerging from both subsistence fishers and some biologists who have participated in this research, as has anxieties about their future availability for customary and traditional uses. These concerns are accentuated by recent events such as historically low sockeye abundance in 2018 and 2020, and clear trends of decline in Chinook abundance.

Although biologists do not know the reasons for these declines, many enrollees in AITRC's member tribes have expressed strong concern about steadily increasing harvest levels in upriver subsistence and personal-use fisheries. Many of these concerns have been specifically directed toward the state fisheries, but gaining an accurate picture of in-season harvest levels would be best accomplished if in-season reporting were applied universally across all state and federal

Tsin'aen

subsistence and personal-use fisheries. Companion proposals submitted to the State Board of Fisheries address the state-managed fisheries.

While this proposal would require more frequent reporting, it would not require federally-qualified subsistence users to report any more data on their harvests than is required currently. Federal subsistence users must already track their daily harvest levels, by species, and report these totals at the end of each season. If this reporting were done using an online app, it would not require any more effort than is required under the current system.

Timely reporting would probably produce better-quality data than does end-of-season reporting. A common problem with the current system is that subsistence fishers often fail to keep their permits up-to-date, waiting to fill them out till the end of the year when they are due, and guessing about their daily catch totals. During years of low abundance, these data could provide more granular data on the fishery, enabling more adaptive management decision-making. They also might help to build trust and consensus between fisheries management and an interested local public.

FP 21-12

AITRC is in support of proposal FP 21-12, which would ban monofilament-type dipnets between June 1st and August 15th. While Chinook salmon run sizes have fluctuated, they have shown a clear trend of decline during the past 20 years (Savereide et al. 2018). Biologists are investigating the reasons for these declines; multiple factors are likely implicated in these changes, including changing ocean conditions. Even so, simple in-river conservation measures would help to maximize the survival rates of Chinook salmon during spawning migration, while still maintaining in-river harvest opportunities.

Both dipnets constructed with inelastic seine-style mesh, and the traditional Ahtna style made with inelastic mesh, are effective at catching salmon. Inelastic, seine-style nets are widely available and are no more expensive than monofilament-type nets. This proposal would not reduce opportunity, and would have no effect on the number of Chinook salmon federally-qualified dip net fishers would be allowed to retain each year.

This proposal would promote greater survival rates among Chinook salmon caught in nets and then released back into the river. These releases occur frequently with Chinook salmon, both when dip net fishers have exceeded their seasonal limits, and when fishers voluntarily release Chinooks due to conservation concerns. Salmon are far more likely to become severely entangled in monofilament/multifilament nets than in nets with inelastic bags. As the same kind of mesh material used in gillnets, monofilament nets are designed to catch fish on the jaws, gill-plates, fins and other protruding areas of the fish, as well as to stretch and become tightly girdled around their abdomens. These entanglements can cause direct injuries to the salmon (e.g. split tail-fins, broken gill-plates, abrasion), and at the very least, it can make untangling salmon from these nets a far longer and more difficult process, especially for inexperienced fishers. Longer time out of the water leads to increased stress and greater likelihood of mortality. Inelastic-type dipnets, on the other hand, are far more likely to merely enclose the salmon without causing excessive entanglement or injury.

One slight modification to this resolution should be considered: as it is currently worded, this resolution could be interpreted as prohibiting the rigid dipnets that are customary traditional to

Ahtna fishers (commonly made of chicken-wire nowadays). Because of their rigidity, these traditional-type nets do not cause entanglement. Accordingly, the resolution should contain language specifically allowing these, such as by removing the word “braided” from the proposed regulation:

“You may not use a dipnet that is rigged with monofilament or multifilament mesh before August 15th (when the majority of the Chinook run has passed into the upper Copper River). Before this time, your dipnet must be rigged with ~~braided~~, inelastic mesh.”

FP 21-13

AITRC strongly supports proposal FP 21-13, which would ban dipnetting from boats. We feel that the dramatic increase in this method’s popularity (Botz and Somerville 2017) poses significant conservation concerns.

Salmon often delay their upriver migration during high water events, resting in deep parts of the river and/or areas such as eddies where the current is less intense. During these times, catch per unit effort for fish wheels and onshore dipnetters tends to be quite low. However, dipnetters in boats are able to move throughout the river and target these resting areas. On the middle Copper River (i.e. Chitina – Gulkana), subsistence fishers have observed that when the water begins to recede, large pulses of fish have often followed bringing very good fishing during the following days. During the past several years, local/traditional knowledge observations suggest that these pulses of fish have not been occurring in the same way. Although research into this topic is warranted, a very likely explanation for this change is that boat-based dip netters are catching much of the fish that are resting in these deep pockets.

AITRC’s PFMP research and activities have shown that there is significant opposition to the practice among Copper Basin locals. For one longtime subsistence fisher and Ahtna elder, made the following observations during our 2019 interview with him:

[...] Not only do they get ‘em from the shore and now they’re getting ‘em in the middle of the river. And they’re using boats to do it. And the boats are just like, you’re moving. You’re not like you’re standing still waiting for the fish to come to you—you’re going down the river getting ‘em as they’re coming up. And all you’re doing is hanging the net out the w—out the way, but. Not really a work—just to sit there and float and hang onto a net. And then and—and then, they’re right down the middle of the river so right-right outside the fishwheel.

As this elder points out, the mobility of boat dipnetters gives them a competitive advantage over both fishwheel users and dipnetters who fish from shore. Both fishwheel fishers and onshore dipnetters have reported disruptive encroachment by parties that are dipnetting from boats. Because fishwheels are large and stationary, they have no way of avoiding dipnetters from boats who are inconsiderate and come too close. This can also be an issue for dipnetters who are fishing from shore, as onshore fishing sites are limited in some parts of the river.

Dip netting salmon from boats is not a customary or traditional use of the resource. In traditional times, Ahtna fishers dipnetted from shore or from platforms that extended into the river (Simeone and Valentine 2007), but did not dipnet from boats floating in the river. Even among non-native settlers, dip netting from boats does not have a long enough history to be considered a

customary or traditional use of the resource. Rather, this is a practice that has only become widespread during the past one or two decades. Although this is not, specifically, a difference in the equipment used to harvest salmon, it represents a dramatic change in the way in which the fishery is prosecuted. Boats can confer a competitive advantage over fishers who fish from shore, as noted above, but they are expensive to own and operate, and are thus not available to many federally-qualified subsistence fishers.

FP 21-14

AITRC supports FP 21-14, which would ban fish finders from boats that are fishing on the Copper River. Obviously, if FP 21-13 is approved, this proposal will not be necessary. However, if FP 21-13 is voted down, the board should at least the use of devices that enable boat-based fishers to target schools of fish. This targeting contributes to the likely overfishing of salmon during high-water events, as mentioned above.

Fish finders are a technology that is in no way customary or traditional to any of the fisheries on the upper Copper River. This proposed regulatory change would be unlikely to have negative impacts on many federally-qualified subsistence users, as most experienced locals already know where to find schools of fish, anyway. Restricting fish-finders would merely encourage inexperienced fishers to develop the knowledge and experience that are requisite for fishing on a swift, dangerous river such as the Copper.

Along these lines, we have previously heard the objection to banning fish finders; that they are needed to watch for rocks and sandbars on the Copper River. We are somewhat skeptical of this explanation, as the Copper is a swiftly-flowing river, and most fish finders are not reliable for spotting rocks or other objects in time to avoid them. Learning to read river conditions (i.e. through direct observation) is by far the safest and most reliable way of avoiding these hazards. Again, fishers who depend on fish-finders to avoid running aground may lack the necessary experience to safely fish on a dangerous river like the Copper. Rather than increasing safety for these inexperienced fishers, overreliance on these devices diverts their attention away from actually observing the river.

Thank you for the opportunity to comment on these proposals.

Tsin'aen,


Karen Linnell
Executive Director

References:

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Fw: [EXTERNAL] comments on copper river proposals

From: michael mahoney <mjmahoney22@hotmail.com>
Sent: Thursday, July 2, 2020 12:33 PM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] comments on copper river proposals

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

Thank you for the opportunity to comment.

FP 21-10

Given the concerns that biologists, managers and stakeholders have with the king and sockeye salmon abundance on the copper river, I don't think that it would be a good idea to open up a new fishery on the lower copper river in order to target these fish (especially Kings). Therefore, I am opposed to it. Cordova residents have ample opportunity to harvest salmon resources in the area. One excellent king salmon harvest opportunity, which is utilized by many residents is the remote release site at fleming spit.

FP 21-11

I cannot think of any downside to this proposal. I support it. With modern communication options, there is no reason why this timely reporting would be too burdensome to the user. Good in-season management requires current data, and this is the only way for that to happen. It is time to give our managers the tools they need to protect this fishery.

FP 21-12, 13, 14

I think that all of these changes would be helpful in protecting our King salmon and I support them. All of these practices are not customary and traditional, and have resulted in a much higher efficiency levels of harvest. With the use of boats, and sonar equipment in particular, there is a corresponding profit motive from the guide services who profit from this.

Sincerely,
Mike Mahoney
PO Box 2416
Cordova, AK 99574

Fw: [EXTERNAL] Prince William Sound proposals

From: Thea Thomas <thea@ctcak.net>
Sent: Thursday, July 2, 2020 7:19 AM
To: AK Subsistence, FW7 <subsistence@fws.gov>
Subject: [EXTERNAL] Prince William Sound proposals

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

Dear Mr. Matuskowitz,

I am a 40 year resident of Cordova, Alaska and a commercial fisherman. Over the years, i have served on several boards and presentedly am on the board of the Copper River/Prince William Sound Marketing Association and the Prince William Sound Science Center.

I am strongly opposed to proposal FP21-10. Subsistence users have more than adequate opportunity through the State of Alaska subsistence openers which occur 3 days a week, and the federal subsistence opportunity on the Eyak River.

I strongly support proposal FP21-11, FP21-12, FP21-13 and FP21-14. These proposals are important to limit over harvest in the Chitina dipnet fishery and to acquire timely data on the harvest.

Thank you

Thea Thomas
PO BOX 1566
Cordova, AK 99574
907 424 5266

June 29, 2020

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

Mr. Matuskowitz:

Enclosed are Ahtna Tene Nene' comments on 2021-2023 Federal Fisheries proposals. Please record them as public comments for Southcentral Subsistence Regional Advisory Council's and Eastern Subsistence Regional Advisory's recommendation, and to the Federal Subsistence Board for final decision making and action.

Sincerely,

David Stickwan
for
John Dye
Mr. John Dye,
Vice Chair

Page 1 of 12

FP21-14

1. Kirk Wilson
HcoI box 1960
Glennallen, AK 99558
907.320.1016
kirkakfish@yahoo.com

2. What regulations you wish to change. Include management unit number and species. Quote the current regulation if known. If you are proposing a new regulation, please state, "new regulation."

50 CFR 100.27(11)(xi) - New regulation

3. How should the regulation read? Write the regulation the way you would like to see it written in the regulations.

While you are fishing from a boat or other watercraft, you may not have onboard any device that indicates bathymetry and/or fish locations (i.e. fish finders).

4. Why should this regulation change be made?

The use of electronic devices that indicate bathymetry and/or fish locations (i.e. fish finders) is contributing to unsustainable harvest practices on the upper Copper River. These devices enable fishers to locate and target specific holding areas in the river. Wild stocks are very vulnerable in these areas. These stocks are very time-sensitive and probably travel in small groups and use these areas to hold before continuing upriver. If we do not address this issue, we will continue to see our wild stocks and Gulkana brood stocks not meet their objectives. The Gulkana Hatchery has not met their brood-stock goals for the past five years, and this is surely also the case for some wild stocks.

5. You should provide any additional information that you believe will help the Federal Subsistence Board in evaluating the proposed change.

Comments:

We support FP21-14 to dis-allow fish finders or any such device that indicate bathymetry while fishing from a boat or other watercraft.

Fish finders may work to indicate or show where Sockeyes and Chinooks are in the Copper River. Fishing with a fish finder may or may not enable fishermen to harvest an abundance of fish in the Copper River. Allowing use of fish finders may encourage fishermen to find ideal spots in the Copper River to over harvest salmon in the Copper River or near its tributaries.

This past summer there was a low Sockeye and King Salmon run, timing and strength, fish finders should not be allowed to harvest salmon in the Copper River District. Everyone should be concerned about this fisheries and do what we all can do to protect fisheries in the Copper River.

Bonnie Yazzie
PO Box 67
Chitina, AK 99566

July 2, 2020

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

To the board:

I am from an Ahtna family who has depended on Copper River salmon since time immemorial. Although I lived away from the region for a long time until fairly recently, we still received salmon every year from our relatives. I work for Native Village of Chitina as an Office/Accounting Assistant, and serve as Secretary/Treasurer on the Ahtna Intertribal Resource Commission Board of Directors.

FP 21-11: support. I think that we need to know exactly what's being taken in order to accurately manage the fishery. This would help keep people more honest and in-check. In some of the Kenai Peninsula clam fisheries, they have checkpoints to check people's permits and see how many clams people have dug. It helps keep people honest. But when dipnetters come here to Chitina there's no check-point. We have more than 10,000 people come through here each year and nobody is monitoring. The very least we can do is require in-season reporting.

I also support FP 21-12, to ban monofilament dipnets during king season.

FP 21-13: support. Dipnetting from a boat is not a customary or traditional way of getting salmon. They didn't do it back in the early 1900s. Back then, we actually made our own dipnets out of alder. We didn't get on boats and dipnet for salmon. The people nowadays who are dip netting from boats are getting all their salmon easy. They come down by the thousands and all dipnet at the same time, and the people who live up the river are not getting their salmon. Last year was a good example. Managers opened the dipnetting in June and hardly anybody got salmon in their fishwheels after that. To me it's taking unfair advantage of the resource. They're not dipnetting; they're trawling. They're just holding their dipnets in the water and drifting down the stream and throwing the fish in their boats. I've heard of dipnetters in boats limiting out this year, while many of us with fishwheels are struggling.

FP 21-14: support. In the past, boaters with fish-finders have used the excuse that they need the fish-finders to navigate the river channel. These fishers need to learn the river channel. Using fish-finders to find salmon is taking unfair advantage, once again.

Thank you for your consideration.

Sincerely,



Bonnie Yazzie

RP19-01 Executive Summary	
General Description	Proposal RP19-01 requests Moose Pass be considered a rural community, independent of the greater Seward area. <i>Submitted by Jeffery Byden of Moose Pass.</i>
Proposed Regulation	Moose Pass is considered rural, and will no longer be part of the Seward Nonrural Area
OSM Conclusion	Support FP10-01 with modification
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	Support
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Oppose
Written Public Comments	None

**DRAFT STAFF ANALYSIS
RP19-01**

ISSUE

Nonrural Determination Proposal RP19-01, submitted by Jeffrey Bryden of Moose Pass, asks the Federal Subsistence Board (Board) to consider Moose Pass as a rural community, independent of the greater Seward area.

DISCUSSION

The proponent states that Moose Pass is a community that has maintained a unique culture, but it has never been considered on its own merits, outside of meeting the requirements for aggregation with the greater Seward area. The proponent asserts that under the new Federal Subsistence Board's Nonrural Policy, Moose Pass should be considered a separate community from Seward, and will qualify as rural.

The proponent describes the area for consideration as extending from Mile 25 to Mile 37 of the Seward Highway. The proponent justifies these community boundaries by distinguishing landmarks, like Falls Creek at Mile 25 and the junction (the "Y") at Mile 37, as well as separation in utility service areas. South of Mile 25 is a different postal code and has separate electrical service from those found north of Mile 25. The proponent also asserts that no one lives north of Mile 37 until after the start of the Sterling Highway and the beginning of the Federally defined rural area.

The proponent provides rationale for seeking a change in the nonrural status of Moose Pass. He states that Moose Pass is an old Alaskan community with a unique culture that is separate from Seward. The community has its own churches, community club, fire department, post office, businesses, and school. The proponent describes a way of life he claims is similar to other rural Alaskan communities in that residents rely upon fishing and hunting in the region and gathering natural resources like firewood, mushrooms, and berries from the Forest Service lands that surround Moose Pass. He points out that the community is surrounded by Federal lands that are open for subsistence harvest activities by rural residents, and that Federally qualified citizens have harvested resources from the lands surrounding their community. The Federal lands limit the growth of Moose Pass, which the proponent states is why the local population has not grown, but has remained stable. This has allowed the community to keep the rural feel and culture that drew him to the area in the first place. The proponent argues that because Forest Service lands are open to subsistence harvest activities, Moose Pass residents should be eligible to harvest local resources.

Extent of Federal Public Lands

Unit 7 is comprised of approximately 78% Federal public lands, and consists of 50% Forest Service managed lands, 23% National Park Service managed lands, and 5% U.S. Fish and Wildlife Service managed lands. The National Park Service lands (Kenai Fjords National Park) are not open to subsistence uses (see **Figure 1**. Federal Lands in Unit 7).

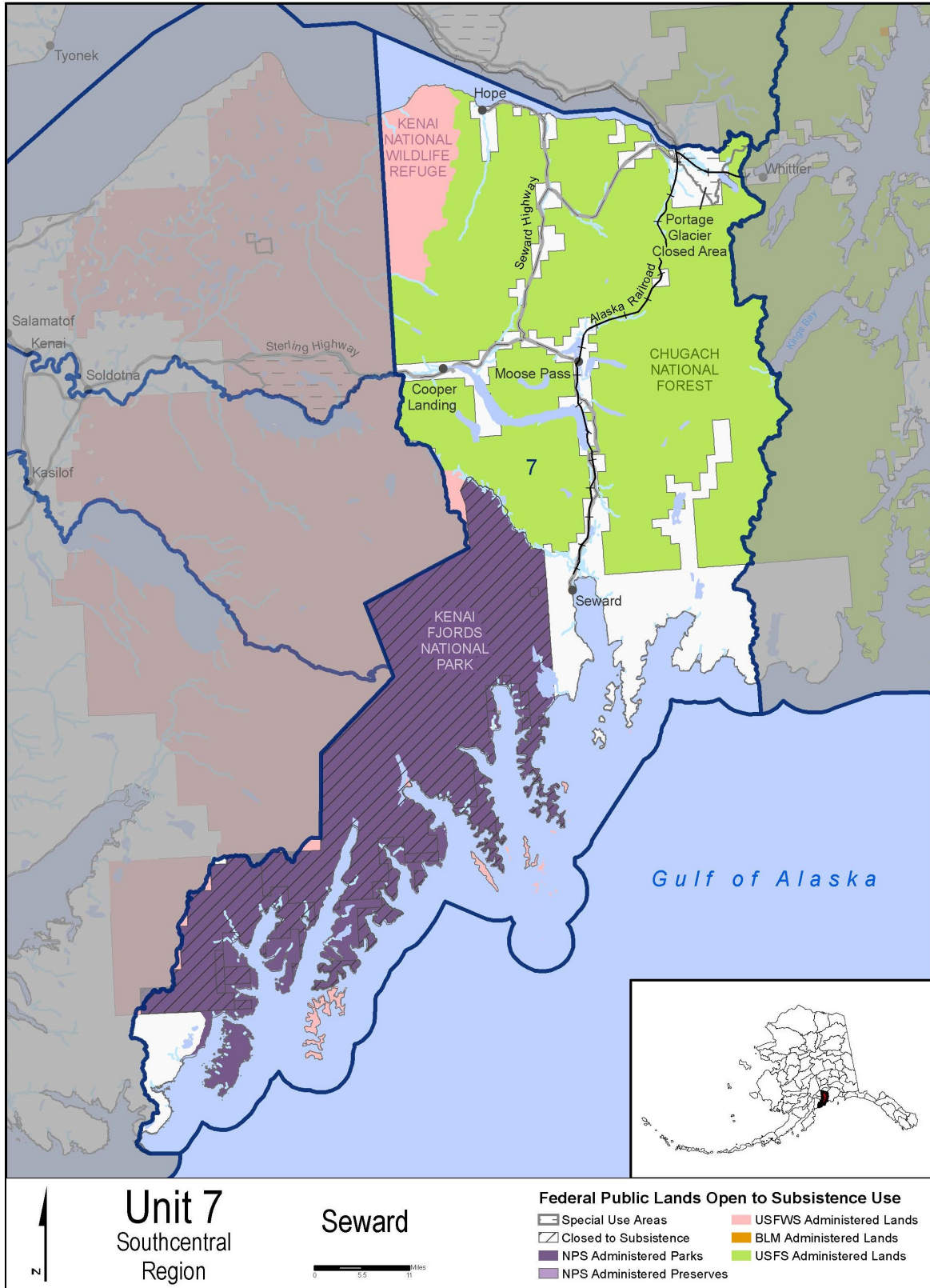


Figure 1. Federal Lands in Unit 7.

Regulatory History

1990s

While Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) does not explicitly define “rural,” the legislative history of ANILCA provides some insight. Senate Report 96-413 identified Anchorage (population 174,431), Juneau (22,645), Fairbanks (22,645), and Ketchikan (7,200) as examples of nonrural communities in 1980, and Barrow (population 2,267), Kotzebue (2,054), Nome (2,544), Bethel (3,567), and Dillingham (1,563) as examples of rural communities, and further stated that the rural nature of such communities is not a static condition and can change (55 Fed. Reg. 126, 27119 [June 29, 1990]). The Ninth Circuit Court of Appeals provided some guidance in its decision in *Kenaitze Indian Tribe v. State of Alaska*, when reviewing the State’s subsistence law, “[Rural] is a standard word in the English language commonly understood to refer to areas of the country that are sparsely populated, where the economy centers on agriculture or ranching . . .” (*Kenaitze Indian Tribe v. State of Alaska* 1988).

With that starting point, the rural/nonrural determination process established in 1990 included a process for aggregating communities that were socially and economically integrated *before* assessing the community or area for rural/nonrural characteristics. At the beginning of the Federal Program, communities were aggregated using the following criteria: (1) Do 15% or more of the working people commute from one community to another; (2) do they share a common school district; (3) are daily or semi-daily shopping trips made. Once aggregated, community or area population size was assessed; a population of up to 2,500 was rural, over 7,000 was nonrural, and those communities with populations in between were not presumed to be rural or nonrural. In order to evaluate a mid-range community or area’s rural status, the Board applied characteristics that included, but were not limited to: fish and game use; development and diversity of the economy; community infrastructure; transportation; and educational institutions.

The Board aggregated Seward with Moose Pass (estimated populations 2,463 and 144 respectively) and created a Seward Nonrural Area (**Figure 2**). At the time of the first aggregation in 1988, Crown Point and Primrose were not yet CDPs and staff were not able to confirm at this time if the Moose Pass CDP incorporated all or only parts of present day Crown Point and Primrose CDPs. Together, these areas had a population over the 2,500 person threshold stipulated in the Board’s policy. Based on the process outlined above, it was determined that the Seward Area had primarily nonrural characteristics (56 Fed. Reg. 238 [January 3, 1991]).

2000s

In May 2000, the Board determined the Kenai Peninsula to be rural effective July 1, 2000 (127 FR 40732 [June 30, 2000]). The June 30, 2000 Federal Register final rule (65 FR 40730) noted the following:

The Board, after hearing a summary of the staff report, including oral and written comments on the Proposed Rule, receiving a recommendation from the Southcentral Regional Advisory Council, and receiving testimony from the State of Alaska, and numerous interested citizens,

deliberated in open forum and determined that the entire Kenai Peninsula should be designated rural. Accordingly, we are amending 36 CFR 242.23(a) and 50 CRF 100.23(a) to remove the Kenai Peninsula communities (Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, Clam Gulch, Anchor Point, Homer, Kachemak City, Fritz Creek, Moose Pass, and Seward) from the list of areas determined to be nonrural.

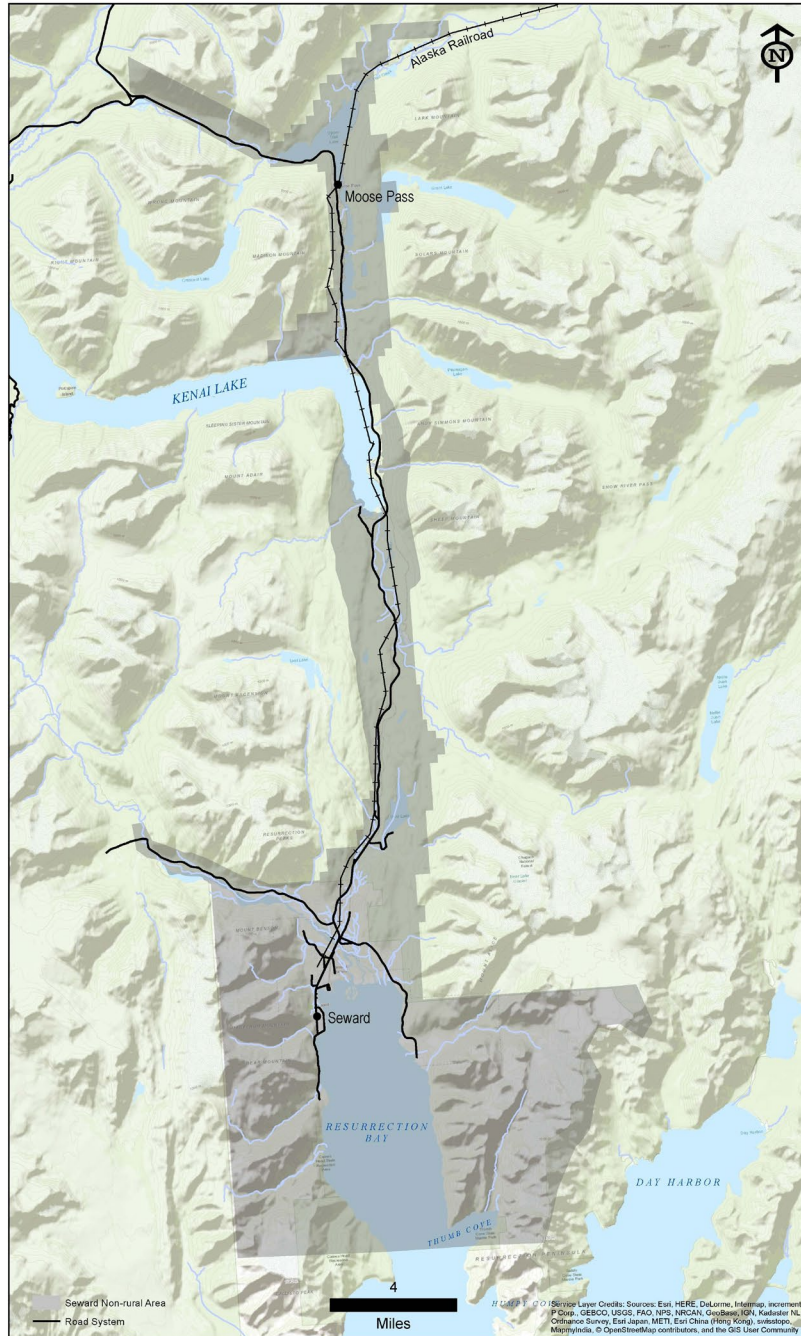


Figure 2. Seward Nonrural Area.

However, in June 2001 the Board rescinded its decision (67 FR 30561 [May 7, 2002]). The May 7, 2002 Federal Register final rule (67 FR 30559) contained neither background on nor summary of the reasons for the Board rescinding its 2000 determination that all of the Kenai Peninsula was rural. In reviewing the transcripts, four of the six Board members who voted to rescind the decision provided the following reasons: the aggregation of the three Kenai Peninsula areas for Kenai, Homer, and Seward were valid and, these areas as aggregated are predominately and increasingly non-rural in light of population numbers and community characteristics (FSB 2001: 66). The final rule simply noted the following, amidst a list of ten regulatory changes; no further explanation was provided:

Section ____ .23(a)—Included the areas of Kenai, Seward, and Homer to the list of non-rural areas. This reflects the Board’s May 2001 rescission of its May 2000 decision that had determined these communities to be rural.

In August 2007, the Board published the final rule following its 2000 decennial review of rural determinations (72 Fed. Reg. 25688 [May 7, 2007]). In the decennial review, Moose Pass was again aggregated with Seward to form the Seward Nonrural Area (to include Moose Pass, Crown Point, Primrose, Bear Creek, Seward, and Lowell Point CDPs). Additionally, the Board changed Adak’s status to rural, added Prudhoe Bay to the list of nonrural areas, and adjusted the boundaries of the following nonrural areas: the Kenai Area; the Wasilla/Palmer Area, including Point McKenzie; the Homer Area, including Fritz Creek East (except Voznesenka) and the North Fork Road area; and the Ketchikan Area, including Saxman and portions of Gravina Island. The effective date was June 6, 2007, with a 5-year compliance date of May 7, 2012 (77 Fed. Reg. 77006 [December 31, 2012]).

2009 – Present: Secretarial Review and Formation of a New Policy on Nonrural Determinations

In October 2009, the Secretary of the Interior, with concurrence from the Secretary of Agriculture, initiated a Subsistence Program Review which concluded, among other things, that the Board review the process for rural determinations with Regional Advisory Council input. The Board initiated a review of the rural determination process and the 2000 decennial review in 2012 and found that it was in the public’s best interest to extend the compliance date of its 2007 final rule (72 Fed. Reg. 25688 [May 7, 2007]) on rural and nonrural determinations until after the review of the rural determination process and decennial review were complete or in 5 years, whichever came first. Another extension on nonrural determinations was published in the Federal Register on November 7, 2013 (78 Fed. Reg. 66886 [November 7, 2013]).

During the review process the Board solicited public comments and held public meetings across the state. Substantive comments indicated a broad dissatisfaction with the rural determination process that included criteria for aggregation, population thresholds, and the decennial review. Based on Regional Advisory Council input, public comments and Tribal consultations, and including briefings from OSM staff, and under direction from the Secretaries of the Interior and Agriculture, the Board forwarded a proposal that simplified the rural determination process.

On completion of the review, the “Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process” was published in the Federal Register on November 4, 2015 (80 Fed. Reg.

68249, November 4, 2015). In it, the revised regulations governing the rural determination process and the 2009 secretarial review were described. The summary states:

The Secretaries have removed specific guidelines, including requirements regarding population data, the aggregation of communities, and a decennial review. This change will allow the Federal Subsistence Board (Board) to define which communities or areas of Alaska are nonrural (all other communities and areas would, therefore, be rural). This new process will enable the Board to be more flexible in making decisions and to take into account regional differences found throughout the State. The new process will also allow for greater input from the Subsistence Regional Advisory Councils (Councils), Federally recognized Tribes of Alaska, Alaska Native Corporations, and the public.

At the same time, the “Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List” was published in the Federal Register on November 4, 2015 (80 Fed. Reg. 68248, November 4, 2015). Based on the Secretarial review and the revised guidance listed above, nonrural determinations reverted to pre-2007 regulations, except for the community of Adak which remained rural.

The Board approved the new Policy on Nonrural Determinations on January 11, 2017.

Current Events

A public hearing for public comment on RP19-01 was held October 9, 2019 at the library in Moose Pass. The meeting was attended by 44 people in person; two area residents attended via teleconference. Federal agency representatives also attended in person or by phone. Of the twelve people that provided public testimony (either in person or by phone), five people claimed they resided in the Crown Point area and one person claimed residency in the Primrose area. Ten individuals provided testimony in person and two provided testimony over the telephone. All persons who testified were in support of the proposal. Many provided substantive comments that described the unique characteristics of the community and many argued for an expanded analysis extending consideration beyond the boundaries described in the proposal, asserting a broad definition of the community of Moose Pass.

Public testimony was also presented to the Southcentral Alaska Regional Advisory Council during the October 2019 meeting in Seward. Three residents of the Moose Pass area spoke in support of the proposal, provided substantive comments, and responded to Council member questions regarding their testimony. All three had attended the public hearing in Moose Pass and provided similar testimony to the Council as presented at the hearing.

All twelve people who provided public testimony at the hearing and the three who reiterated their points before the Council on October 10 expressed their perception that Moose Pass is a rural community. Many testified strongly that Moose Pass should never have been aggregated with Seward. Many also stated their community is very different from Seward. They defined those differences in

terms of the numbers of stores and businesses, large schools, and numerous churches, asserting that unlike Seward, Moose Pass “...has kept its consistently small number of residents with limited services and amenities” (Public Hearing 2019). All who testified described their community as rural and emphasized that it was the unique rural qualities of the community and the vast undeveloped lands surrounding it that led them to settle there or kept them there as residents.

Of the twelve who provided public testimony, six were area residents that lived outside of the Moose Pass CDP but within other Moose Pass areas of Crown Point and Primrose. A total of eight members of the Moose Pass area provided a perspective that their community was broader than that described in the original proposal. One lifelong resident of the Moose Pass town site described his community as extending from north of the Snow River Bridge up to the “Y,” and even slightly beyond this point.

Nonrural Decision Making

The new Nonrural Policy does not provide explicit criteria or a checklist for determining whether a community is rural or nonrural. Instead, the Board uses a comprehensive approach, including consideration of information provided by the public, and relies on the Council to confirm relevant information and to identify the unique characteristics of a rural community in their region. The following text, taken directly from the Policy, shows **bold** and underlined text that highlights the guidance upon which this analysis is focused.

The Board’s Nonrural Determination Policy states:

“The Board will make or rescind nonrural determinations using a comprehensive approach that may consider such factors as **population size and density, economic indicators**, military presence, industrial facilities, **use of fish and wildlife**, degree of **remoteness and isolation**, and any other relevant material **including information provided by the public**. As part of its decision-making process, the Board may compare information from other, similarly-situated communities or areas if limited information exists for a certain community or area.

When acting on proposals to change the nonrural status of a community or area, the Board shall:

- Proceed on a case-by-case basis to address each proposal regarding nonrural determinations;
- Base its decision on nonrural status for a community or area on **information of a reasonable and defensible nature contained within the administrative record**;
- Make or rescind nonrural determinations based on **a comprehensive application of evidence and considerations presented in the proposal** that have been verified by the Board as accurate;
- Rely heavily on the recommendations from the affected Regional Advisory Council(s);
- Consider comments from government-to-government consultation with affected Tribes;
- Consider comments from the public;
- Consider comments from the State of Alaska;
- Consider comments from consultation with affected ANCSA corporations;

- Have the discretion to **modify the geographical extent of the area** relevant to the nonrural determination; and
- Implement a final decision on a nonrural determination in compliance with the Administrative Procedures Act (APA).

The Board intends to rely heavily on the recommendations of the Councils and recognizes that Council input will be critical in addressing regional differences in the nonrural determination process. **The Board will look to the Regional Advisory Councils for confirmation that any relevant information brought forth during the nonrural determination process accurately describes the unique characteristics of the affected community or region.**”

During the 2019 Southcentral Alaska Subsistence Regional Advisory Council (Council) fall meeting, the Council provided suggestions to OSM staff on how to proceed with an analysis and what kinds of information the Council would find most helpful in assessing characteristics of rural communities in the Southcentral region. After attending the public hearing in Moose Pass the night before, and hearing from Moose Pass area residents during the meeting, Council members expressed tentative support for recognizing Moose Pass as a rural area (SCRAC 2019: 177; 179). Council members also commented on the sense of remoteness that was amplified by the community being completely surrounded by Federal lands (SCRAC 2019: 192). Council members expressed interest in learning more about Moose Pass’ reliance on and traditional use of fish and wildlife and other resources in close proximity to their community (SCRAC 2019: 192; 193; 198). One Council member expressed interest in seeing comparisons with other rural communities on the road system (SCRAC 2019: 200) and another shared on record: “The best indicators were the historic talks from the people that testified. That gave me the usage. That’s what I was looking for” (SCRAC 2019: 198).

These Council comments, along with guidance from the Policy, provide direction for the following organization of this analysis.

The Moose Pass Area

Environmental and Geographic Setting

The Moose Pass area is situated on the northeastern portion of the Kenai Peninsula. The local topography is mountainous and typified by glacially sculpted valleys and passes, sharp, snow tipped mountains, and watersheds that drain into lakes, rivers, or directly into the ocean. The Kenai Peninsula is within a maritime climate zone supporting boreal forests of hemlock, lutz spruce, and mixed deciduous trees with wet lowlands to the south. The Chugach Mountains run along the eastern portion of the peninsula bordering the Gulf of Alaska. It is within this eastern region of the Kenai Peninsula that the second largest National Forest in the United States (U.S.), the Chugach National Forest, is located. Established in 1907, the Chugach National Forest encompasses 5.4 million acres that are accessible by road, plane, or boat (USFS 2019).

Located within the western extent of the Chugach National Forest is the community of Cooper Landing, and the census designated places (CDPs) of Crown Point, Moose Pass, and Primrose. The town of Seward is just south of the forest boundary and located on the maritime port of Resurrection

Bay. All of these places have their origins in the developmental phase of mining and railway construction on the Kenai Peninsula, which began in the early 1900s (Barry 1997; Rakestraw 2002).

Moose Pass is a CDP that shares facilities and some services (post office, school, store, volunteer fire department, the Moose Pass Sportsman’s Club and Community Hall, library, and Chamber of Commerce) with two neighboring CDPs, Crown Point and Primrose, which are located just south of the Moose Pass CDP (Davis et al. 2003). Other important facilities and services situated within the Crown Point and Primrose CDPs include the Seward Ranger District Ranger Station, campgrounds, lodges, and small local businesses like IRBI Knives. These settlements stretch along the Seward Highway (**Figure 3**. Moose Pass Area Map describes Census Designated Places and important markers); Moose Pass CDP is located between miles 25-37 of the Seward Highway on the shores of Upper Trail Lake, Crown Point CDP between miles 23-25 and Primrose CDP between miles 15-23. Mile 23 marks the location of the former community of Lawing (Davis et al. 2003; Sewell-DeMichele 2002). Mile 15.5 marks the Snow River Hostel, the last structure in the Primrose CDP. The Bear Creek CDP shares a northern border with the Primrose CDP and a southern border with the Seward CDP. Approximately eight miles of uninhabited road stretch between the Snow River Hostel and the first Seward connected settlement within the southern portion of the Bear Creek CDP.

The closest community north of Moose Pass is the rural community of Cooper Landing, which is located on the Sterling Highway about 19 miles northwest of Moose Pass. Cooper Landing is surrounded by the Kenai Mountains and sits along the shores of Kenai Lake and the upper Kenai River (Painter 2002). The town of Seward is located 29 miles south of Moose Pass on the Seward Highway and serves as a hub for a number of industries including shipping and railroad businesses (Morris Communication Company 2019; Olthuis 2002).

The Extent of the Moose Pass Community

Some Council members and residents of the Moose Pass area requested an extension of the geographical definition of the community to include those residents that live beyond the boundaries outlined in the original proposal. Reasons given by the proponent for the original delimitation included unique histories of each area, natural geographical boundaries, and some differentiation in services. However, public testimony indicated that a sense of community among most residents is more broad and inclusive in that residents of Primrose and Crown Point CDPs are considered part of the Moose Pass community. Six people who testified at the Public Hearing in October stated they resided outside of the Moose Pass CDP (five were from Crown Point, one was from Primrose) and all stated they felt they were part of the Moose Pass community. Community bonds encompass those households with children who attend the same school, participate as volunteers for the local Moose Pass Volunteer Fire Company, or those who support, plan, and attend the local Summer Solstice Festival. While local neighborhoods in Moose Pass began with unique histories, they did so within a shared timeframe and context, resulting in a common identity. As one Crown Point resident stated, “I’m a Moose Pass person right here. And when the Board finally gets around to acknowledging the reality of Moose Pass as a distinct community, I would hope that it takes a broader view of who lives here, whose kids go to school here and not just whose ZIP code is here or there” (Public Hearing 2019).

Other indications that the Moose Pass community extends beyond the boundaries described in the original proposal come from local organizations that describe the extent of their membership or services. In the Moose Pass Sportsmen’s Club Constitution and Bylaws membership is limited to: “persons residing within the area of Mile 16 Seward Highway to Mile 50 Seward Highway” (Moose Pass Sportsman’s Club 2015). Another source for describing the extent of community interests can be found in the Moose Pass Comprehensive Plan (Moose Pass Advisory Planning Commission 1993). In it, the Moose Pass Volunteer Fire Company is reported to respond to structural fires from mile 16 to mile 36 of the Seward Highway, and would respond upon request to fires occurring between miles 36 to 50 of the Seward Highway. The fire company is staffed by volunteers from all three neighborhood areas: Crown Point, Moose Pass, and Primrose.

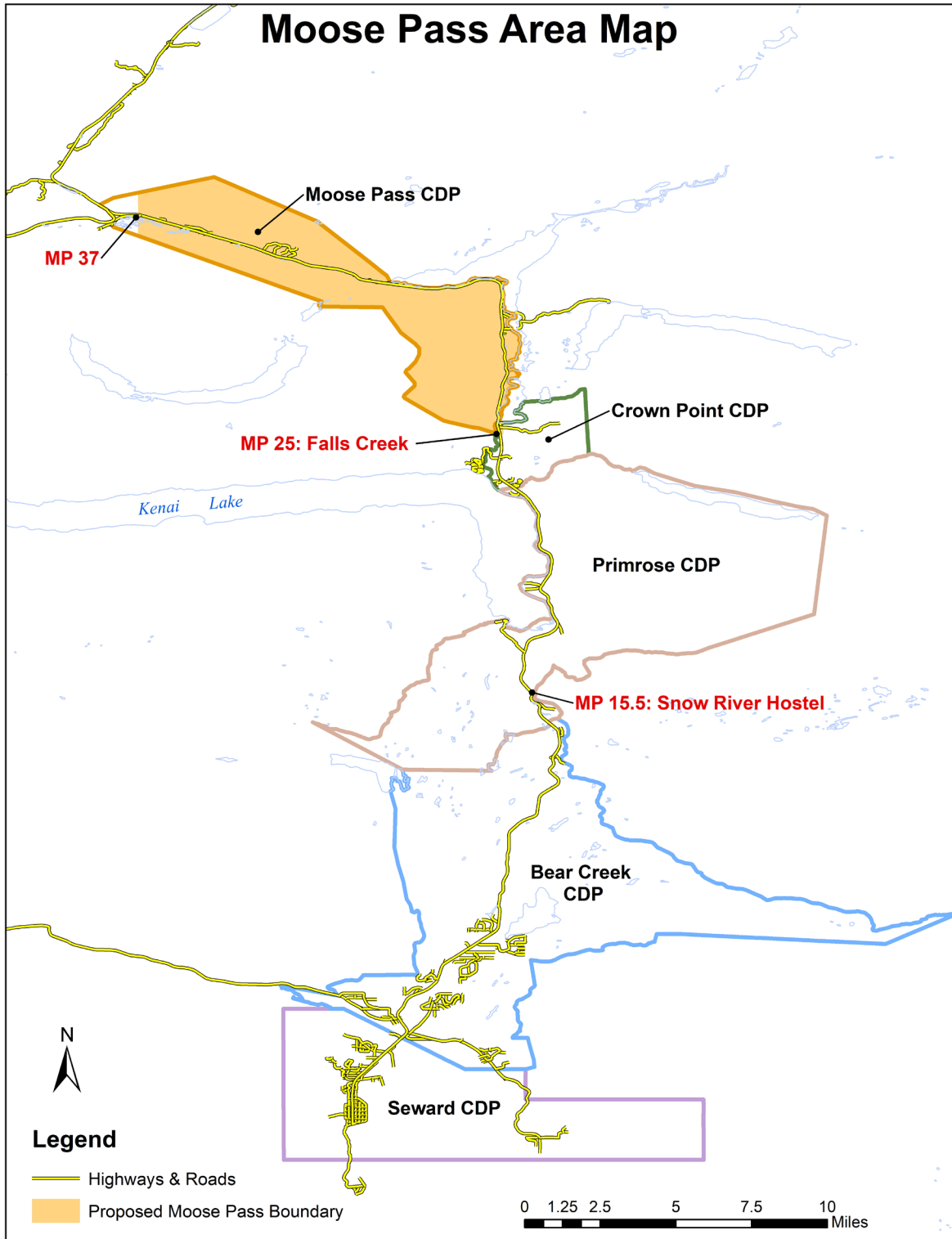


Figure 3. Moose Pass area Map describing Census Designated Places and important markers.

University of Alaska Anchorage graduate student Christine Brummer conducted Master’s thesis research in the Moose Pass area. One of the questions she explored was how local residents define their

community. In interviews, one respondent explained that most area residents consider themselves to be residents of Moose Pass, even when living within the CDP boundaries of Primrose or Crown Point:

“People can be 10 or 12 miles away and they will still say they are from Moose Pass. So tourists sometimes ask me how big is Moose Pass and I would say, well, just about a square mile, about a half of a mile this way and that way is the town site. But I would tell them that people living about 7 miles north and 10 miles south consider this their community center. They come here for the post office, they come here for Christmas parties and the New Year things that the community puts on... I say that I live along a highway in a mountain pass 30 miles north of Seward and 95 miles south of Anchorage. It is mountainous, it is in a mountain pass, there is not a lot of property to build on except along the highway which follows along the rivers and lakes. And I say that people that live along that corridor, which is long, they consider this one unit” (Brummer 2020).

Finally, the Moose Pass Public Library recently produced a 27 minute video on the community’s history titled “Moose Pass – Where the Alaska Pioneering Spirit Lives On.” The video describes the Moose Pass area as encompassing the “the Alpine beauty of Summit Lake, the swans swimming in Turn Lake, the towering peaks of Avalanche Acres where there is no direct sunlight for three months each winter, the small bucolic community built on the edge of Trail Lake and the shores of Kenai Lake, down to the Snow River bridge” (Moose Pass Public Library 2020). This description defines the Moose Pass area boundaries as extending from Summit Lake at Mile Post 45.5 to Snow River Bridge on the southern Boarder of the Primrose CDP at around Mile Post 15.

Population

Table 1 describes the Moose Pass area population from all three CDPs since the 1990 census (Census 2010). The population numbers for 2019 are an estimate from the Alaska Department of Labor and Workforce Development (ADLWD 2019). The population of the entire area is small, even when all three places are combined (n=391). The table shows a slight increase in population between 1990 and the 2000 census, particularly for the Moose Pass CDP. Since 2000 the population within all three CDPs has remained stable.

Table 1. Moose Pass area population from 1990 to 2019.

Moose Pass Area Population				
Census Designated Place	1990	2000	2010	2019
Crown Point CDP	62	75	74	69
Moose Pass CDP	81	206	219	240
Primrose CDP	63	93	78	82
Total	206	374	371	391

History

Moose Pass. The Moose Pass area is situated within the traditional territory of the Lower or Outer Cook Inlet Dena'ina Athabaskans on the northwestern portion of the Kenai Peninsula. Not far from the Moose Pass area, Dena'ina people fished and hunted within the Kenai River watershed and traditional Dena'ina place names have been recorded for area landmarks like *Nildilent* (Trail Creek) and *Sqilan Bena* (Kenai Lake) (Davis et al. 2003). The Alutiiq or Sugpiaq traditional territory bordered the southeastern portion of the peninsula. Archeologists report at least two Alutiiq villages in the vicinity of Resurrection Bay and contemporary Seward but these were no longer occupied when Seward was founded in 1903 (Davis 2003).

The community of Moose Pass has its origins in the developmental phase of the early gold rush period in the Kenai Peninsula. At that time, great efforts were made to establish transportation lines between interior mining operations and port cities where goods and supplies were exchanged and purchased. In 1904, construction of the railroad line from Seward into the interior parts of the Kenai Peninsula began (Davis et al. 2003). By 1908, after only 47 miles of railroad tracks were laid down, the railroad company became insolvent. No railroad cars travelled the uncompleted rail line, but the tracks proved to be a useful trail system for the people transporting goods and traveling throughout the region (Barry 1997; Whitmore-Painter 2002).

In 1909, Oscar Christiansen and Micky Natt prepared a dog team and pack horses for a 29-mile journey north from Seward. It was at this 29-mile marker that Oscar and Micky built a small cabin and log roadhouse that served as a rest and resupply place for the miners and travelers in the region (Whitmore-Painter 2002). A post office and a number of sawmills were constructed in the 1920s, and the first postmaster (Leora Roycroft) officially named the area Moose Pass in 1928 (Davis et al. 2003; Painter 1983). One of the sawmills constructed in the 1920s was owned by the Estes-Raycroft family. The family built a Pelton wheel to power the sawmill and supply electricity to Moose Pass residents until the Chugach Electric Association took over in the mid-1950s (Whitmore-Painter 2002). The Seward Highway was completed in 1951 (Painter 1983).

By the 1930s, a number of buildings and services were built within the Moose Pass town site including a second roadhouse, two grocery stores, a garage with gas pumps, one school, and a library. The garage and pumps were operational until the 1980s (Whitmore-Painter 2002). The Estes grocery store was in existence as of 2019, however, the second Moose Pass grocery store closed down as residents increasingly relied on goods purchased from Seward, Anchorage, and online ordering (Whitmore-Painter 2002). Moose Pass still has a school and library. The school is kindergarten through 8th grade with most high school students either going to Seward or attending correspondence and online schools.

The population in Moose Pass experienced further growth during the 1970s and 1980s as workers with the oil industry and government agencies moved into the area. Since that time, tourism and recreation industries have continued to bring in more people to the community and surrounding area (Whitmore-Painter 2002). Today, Moose Pass is an unincorporated community that is under the jurisdiction of the Kenai Peninsula Borough (ADCCED 2019). Community members have long worked together to raise

funds to purchase goods and construct buildings (Whitmore-Painter 2002). For instance, residents pitched together to buy supplies, donate labor and build the community hall in 1961, which serves as a gathering place and storage for equipment and goods (Moose Pass Advisory Planning Commission 1993). Residents of nearby Crown Point and Primrose consider themselves part of the Moose Pass community and attend local events, like the Moose Pass Summer Solstice Festival (Moose Pass Sportsmen's Club 2019; Himes-Cornell et al. 2013).

Crown Point and Primrose. Crown Point and Primrose are census-designated places located just south of Moose Pass on the Seward Highway. Crown Point is near Kenai Lake and borders the Moose Pass CDP to the north and the Primrose CDP to the south. Although Crown Point was designated as a CDP in 1990 by the U.S. Census Bureau, the U.S. Geological Survey has record of a "Trail Lake Station" located in present day Crown Point in 1912 (ADCCED 2019). Crown Point is located some 22 miles north of Seward, along mile 24.5 of the Alaska Railroad, and Primrose is located along mile 18.4 of the Alaska Railroad just south of Crown Point on the Seward Highway. The Alaska Railroad listed Primrose as a flag stop community in 1919 (ADCCED 2019).

During the early 1900s the settlements that are now contemporary Crown Point and Primrose shared developmental history with Moose Pass as part of an important mining district. Mines were scattered throughout the region and included the Crown Point Mine owned and operated by the Kenai Alaska Gold Company and the Primrose Mine around Kenai Lake at about mile 18 of the railroad (the Primrose area today) (Barry 1997). A small community, Roosevelt, was located at mile 23 of the Alaska Railroad in the early 1900s. A.W. Roberts built a roadhouse in the community that served as a scheduled railroad stop by 1922 (Swell-DeMichele 2002). Bill and Nellie Lawing purchased Roberts' roadhouse and applied for a post office for the community in 1923 (Lawing 2010). Nellie added a museum to the roadhouse and operated both the roadhouse and museum until her death in 1956 (Swell-DeMichele 2002). On Nellie's death, the territory auctioned off Lawing and the area became private property thereafter (Swell-DeMichele 2002).

Today, Crown Point and Primrose are often seen as part of the greater Moose Pass area (Davis et al. 2003). The closest neighboring community located north of Crown Point and Primrose, beyond Moose Pass, is Cooper Landing. Like Crown Point, Primrose, and Moose Pass, the community of Cooper Landing has its beginnings in the mining history of the Kenai Peninsula (Himes-Cornell et al. 2013).

Moose Pass as a Rural Community

A valuable assessment of the status of Moose Pass as rural comes from the community itself. A primary source for understanding how the community of Moose Pass describes itself comes from the residents who provided testimony at the 2019 Public Hearing and fall Council meeting. Twelve people provided testimony during the public hearing, three of whom also attended the Council meeting to reiterate their points before all Council members. All twelve people self-defined their home as "rural" and described a community and way of life that relied heavily on hunting and fishing and resources gathered from the surrounding public lands. The proponent cited in his proposal that it was the rural qualities of Moose Pass that originally attracted him to move to the community. Many community members cited the same reasons for moving to Moose Pass: "My parents chose Moose Pass because of

its small town feel where people take care of their neighbors and their kids grow up living off the land and where they can provide for their family” (SCRAC 2019: 180). At the public hearing, one person who testified described moving from Cooper Landing to Moose Pass in 1970, purchasing property around Mile 35 of the Seward Highway:

“From that address we raised three children and continued for many years to hunt and fish. We moved to the rural setting that has been our home for 40 plus years. We are very self-sufficient in this setting and although we have access to stores in Anchorage, this is a two hour drive. We tend to purchase in bulk and maintain an inventory to provide our needs without frequent trips to the city. Although my work has taken me to distant corner of Alaska, countless villages and settlements, my own settlement, my own circumstances are not that different from what I see in these disconnected areas. There’s little reason to consider our home as anything but rural and our lifestyle similar to those of truly other rural communities” (Public Hearing 2019).

Other attendees of the Public Hearing in Moose Pass emphasized the rural nature of their community by the limited amenities within the immediate vicinity. Many described the planning and logistics required to travel to regional hubs like Soldotna or Anchorage for shopping needs and healthcare visits. Some stressed how travel out of the community can be hampered by a decrease in road service and unforeseen weather events in the winter:

“It’s not easy. You know, nothing about living in Moose Pass is easy. We are reducing the coverage of road services during the winter. They close the Silvertip DOT office I believe. That’s less access potentially in the winter, I think reduced service hours for plowing the highway. So between Copper Landing and Crown Point DOT offices, you we may not be able to get to Seward. I know it’s happened before. We couldn’t get down there. May not be able to get north to Anchorage. So, you know, I think a lot of people here use products of the forest. Subsistence type lifestyles” (Public Hearing 2019).

Limited amenities and services was also used as a distinction between the rural character of Moose Pass and the nearest nonrural hub community of Seward. During the fall 2019 Council meeting, one Moose Pass resident emphasized:

“And now here you are in Seward where there’s multiple grocery stores, restaurants that you enjoyed today at lunch, shops, gas stations, and flourishing schools. What this aggregation did in 1990 was failed to capture the reality of Moose Pass as rural” (SCRAC 2019: 182).

Finally, the documents and media produced by various organizations representing Moose Pass demonstrate aspects of the community’s identity as “rural.” For example, the Moose Pass Comprehensive Plan adopts as a community goal that “Moose Pass should encourage economic growth and tourism in a manner that will enhance, not threaten, the citizens’ rural lifestyle” (Moose Pass Advisory Planning Commission 1993).

Use of Wild Resources

The use of wild resources is an important characteristic of rural areas in all regions of Alaska. Wild resource use can be demonstrated through the public testimony of Moose Pass area residents and the most recent comprehensive subsistence survey conducted by the ADF&G, Division of Subsistence (Davis 2003), and ADF&G permit harvest reports.

Information Provided by the Public. Information provided by the public includes evidence presented in the original proposal, testimony at the Public Hearing and Council meeting, and community produced media and planning documents. Many reported the value of being able to gather firewood, berries, and mushrooms from the lands outside their backdoor, but also related their willingness to travel as far as necessary to take advantage of all opportunities to hunt and fish. During the Council meeting, a resident explained her reliance upon a State draw permit for local opportunity, “I harvested my first moose in Abernathy Creek drainage. Several years later that’s where I harvested my first caribou and since then I have harvested caribou in the Killey River. Both of those were luck of the State draw and they were about eight years apart, so I wasn’t actually that lucky in the draw system” (SCRAC 2019: 180).

Also important for almost all who provided testimony was the ability and commitment to feed their family with wild foods that are available locally. “We’ve fed our children moose, black bear, goat, sheep, salmon and trout throughout the years. We’ve done our best to live a nearly subsistence lifestyle” (Public Hearing 2019). While providing testimony to the Council, one life-long resident claimed, “I grew up eating moose, caribou, salmon, including from road kills, and sharing with other people the less desirable parts like moose brains for eggs in breakfast, kidneys, tripe, tongue, one of my favorites, and moose heart” (SCRAC 2019: 185). Another adds “I know my family rely a lot on hunting and fishing. We don’t buy red meat at all if we didn’t get moose, caribou, or deer somewhere. We probably just wouldn’t buy it and rely more on grouse” (Public Hearing 2019). Most testimony described wild harvest that included the entire household, “Both myself, my wife and my children utilize federal lands for gathering, small game hunting, fishing and we would like to be included because not only are we bordered by Federal lands, but the Federal lands that we’re bordered by also dictate what we do for a living” (Public Hearing 2019).

ADF&G Comprehensive Subsistence Survey, 2000 Study Year. The ADF&G conducted comprehensive subsistence surveys for the first and only time in the Moose Pass area, combining results from Crown Point, Moose Pass, and Primrose, as well as conducting surveys in the nearby city of Seward. The team surveyed 99 households for a 67% community sample from Crown Point, Moose Pass, and Primrose, describing these three CDPs as the Moose Pass study area. Results indicate that 99% of the households used wild foods, 92% harvested resources, 87% reported receiving resources from others, and 60% of households reported sharing their harvested resources with others (Davis 2003). The average number of different kinds of resources harvested per household (i.e., salmon, halibut, moose, grouse, clams, berries) average just under 8, the total average household harvest was 236 lb, and the average per person harvest was 87 lb (Davis 2003). The top ten resources most used by Moose Pass households based on the percentage of households using the resource are: berries (73% of households), halibut (61%), Coho Salmon (59%), Sockeye Salmon (52%), moose (41%), razor clams (26%), Chinook

Salmon (25%), Black Rockfish (15%), deer (14%), and caribou (10%). The top ten resources based on contribution to total community harvest in pounds per person are moose (16 lb per person), Sockeye Salmon (14 lb), halibut (14 lb), Coho Salmon (12 lb), Chinook Salmon (6 lb), razor clams (5 lb), berries (3 lb), caribou (3 lb), deer (3 lb), and Black Rockfish (1 lb) (Davis 2003).

The survey also mapped Moose Pass study area locations for hunting, fishing, and gathering activities between the years of 1990 and 2000. The maps demonstrate a preference for intensive local land and water use as opportunities are available. Residents traveled farthest to harvest salmon, marine fish, and marine invertebrates, with most of the harvest coming from the confluence of the Kenai and Russian rivers, the waters of Resurrection Bay, the beaches stretching between Kenai and Homer and the waters out into the Cook Inlet. Most other resources, including moose, caribou, bear, and goat were taken in the mountains surrounding Moose Pass, Cooper Landing, and Sunrise, or the foothills and flats northeast of Sterling (Davis 2003).

Alaska State Permit Reports. The ADF&G reporting system provides information on which communities apply for permits to hunt wildlife under State regulations. Some local opportunities are limited through competitive drawing permits open to all Alaska residents as well as nonresidents depending on the hunt. **Table 2** demonstrates the number of permits issued to Moose Pass residents for all species in any unit between 1990 and 2010. A total of 1,939 permits were issued over the 20 years. The largest number of 914 permits were issued for moose, 311 for caribou, and 269 for deer. Other wildlife for which residents were issued permits included bison, bear, Dall sheep, elk, and goat.

Table 2. Permits Issued to Moose Pass residents for All Species in any Unit, 1990 – 2010.

Species	Permits Issued
Bison	2
Black Bear	87
Brown Bear	16
Caribou	311
Dall Sheep	230
Deer	269
Elk	5
Moose	914
Mountain Goat	105
Total	1,939

Communities with Rural Status in Southcentral Alaska

There are numerous communities and areas within Southcentral Alaska that are designated as rural under Federal regulations. The characteristics of each community and area are diverse, and there is a wide range of factors that lend to the unique qualities of each area. Some communities can only be reached by boat or plane, like Cordova, Port Graham, or Tyonek, while many Southcentral rural communities are on the road system, like Chistochina, Cooper Landing, or Paxson. Some communities have their populations concentrated in small geographic areas like Seldovia and most of Chitina or

Hope, while other communities have their population spread out over a broader area like Cantwell or Kenny Lake. Other rural communities border on nonrural areas like Chickaloon or Ninilchik. Services and local economies in Southcentral rural communities are as varied as the tourism dependent McCarthy, the commercial fisheries focused Tatitlek, or the area hub community of Glennallen. In this analysis, we seek to understand Moose Pass in the context of surrounding rural communities in Southcentral Alaska and will focus on those communities with rural status on the Kenai Peninsula that share some of its qualities, including access to services and nonrural hub communities, shared resources, and climate.

Comparisons with Other Kenai Peninsula Rural and Nonrural Communities

Table 3 and **Table 4**, provide comparative community characteristics between rural communities of the Kenai Peninsula, the Moose Pass area, and the nonrural communities of Nikiski and Seward. It is important to note that Nanwalek, the Seldovia area, and Port Graham are not on the road system and can only be accessed by plane or boat. Additionally, many of the rural communities are made up of one or more CDPs, and are grouped accordingly. The ADF&G Division of Subsistence conducted comprehensive subsistence surveys in all these communities, defined by CDP or as a combination of CDPs. The nonrural communities are included in these comparison tables to provide context for identifying the threshold between rural and nonrural communities on the Kenai Peninsula.

Demographics. In **Table 3** the rural communities (or community areas) range in population from 177 people in Port Graham to 1,476 in the Ninilchik area. The Moose Pass area has a combined total population of 371 people. As shown in earlier **Table 1**, after some growth between 1990 and 2000, the area population has remained stable and is in the mid-range of most Kenai Peninsula rural communities.

The percentage of population under the age of 18 indicates the number of dependents, the presence of families, and a growing community. The ages of 18 and 65 bracket the population of working age. Although age percentages of the population are discussed in this table, these data may not be useful in distinguishing a rural community from a nonrural community. The rural Kenai Peninsula community with the highest percentage of the population under 18 is Nanwalek at 43%. Other places with a high percentage of the population under 18 are Primrose CDP (34%), Nikiski (nonrural; 34%), and Port Graham (30%). Communities with a lower percentage of the population under 18 are Lowell Point CDP (15%), Hope CDP (16%), and Cooper Landing (18%). The communities with the lowest percentage of the population over 65 are Nanwalek (1%), and Bear Creek, Lowell Point, and Moose Pass CDPs (all 5%). The communities with the highest percentage of the population over 65 are Cooper Landing (19%), Seldovia CDP (18%), and Ninilchik CDP (15%).

Population Density. **Table 3** also describes population density. Density, as documented for the U.S. Census, only describes the population within a defined unit of land called a CDP. The CDPs are varied in size and do not capture the vast amount of unpopulated public, non-private lands that surround them, and are not good indicators of isolation, access to services, or whether a community is rural or not. As noted earlier, some communities classified as rural are very densely populated when their boundaries

are constrained by geographic features like mountains, waters, or public lands. Although population density is discussed here, it is considered to have limited utility in determinations of rural status.

The Moose Pass area is a little under 61 square miles with a population density of about 6 people per square mile. Cooper Landing is about 70 square miles with a population density of 4 people per square mile. The Hope-Sunrise area is about 65 square miles with about 3 people per square mile. The Ninilchik area is the largest with about 295 square miles and 5 people per square mile, and Nanwalek, Port Graham, and Seldovia communities have the smallest areas (8, 6, and 20 per square miles respectively) and the highest population densities of the Nonrural communities on the Kenai Peninsula (30, 28, and 21 people per square miles respectively). The nonrural communities of Nikiski and Seward each have areas of 76 and 73 square miles respectively and both have a population density of about 65 people per square mile.

Table 3. Comparative Community Characteristics; Demographics and Population Density (Source: US Census 2010).

Status	Community	Demographics			Population Density	
		2010 Pop	% Under 18	% Over 65	Area	Density
Non Rural	Crown Point CDP	74	21%	9%	3.6 sq mi	20.5/sq mi
	Moose Pass CDP	219	29%	5%	17.9 sq mi	12.2/sq mi
	Primrose CDP	78	34%	12%	35.5 sq mi	2.2/sq mi
	Moose Pass Area Total	371			60.6 sq mi	6.1/sq mi
	Nikiski	4,493	34%	6%	75.9 sq mi	65/sq mi
	Bear Creek CDP	1,956	28%	5%	39.5 sq mi	51/sq mi
	Lowell Point CDP	80	15%	5%	11.9 sq mi	7/sq mi
	Seward CDP	2,693	22%	8%	21.9 sq mi	200.3/sq mi
	Seward Total	4,729			73.3 sq mi	64.5/sq mi
	Rural	Copper Landing	289	18%	19%	69.8 sq mi
Hope CDP		192	16%	17%	51.8 sq mi	3.7/sq mi
Sunrise CDP		18	28%	11%	13 sq mi	1.4/sq mi
Hope/Sunrise Area Total		210			64.8 sq mi	3.2/sq mi
Ninilchik CDP		883	24%	15%	207.2 sq mi	4.2/sq mi
Happy Valley CDP		593	22%	13%	88.2 sq mi	6.7/sq mi
Ninilchik Area Total		1,476			295.4 sq mi	5/sq mi
Nanwalek		254	43%	1%	8.4 sq mi	30.2/sq mi
Port Graham		177	30%	11%	6.4 sq mi	27.6/sq mi
Seldovia CDP		255	20%	18%	0.5 sq mi	510/sq mi
Seldovia Village CDP	165	22%	10%	19.2 sq mi	8.6/sq mi	
Seldovia Area Total	420			19.7 sq mi	21.3/sq mi	

Fish and Wildlife Use. **Table 4** summarizes the most recent comprehensive subsistence survey conducted by the ADF&G, Division of Subsistence in each community. The study year column documents the most recent year for which data were gathered. The % use column documents the percentage of households reporting use of fish and wildlife (which can include the use of fish and wildlife received from someone else and may not actually mean the household participated in harvest activities). The column showing % of households surveyed describe the sample achievement for each community. A census sample for large communities is hard to administer. In most large communities a random sample is conducted. Each survey attempts to interview as many households as possible to ensure accuracy and the most representative data. Also included are the % of households reporting harvest of resources, receiving resources, and giving resources. The pounds per person column averages out the entire harvest of fish, wildlife, and wild foods for the community and divides it by the number of full-time residents in the community to get the per person average. It is important to note that Moose Pass, along with Nikiski and Seward, are not qualified to hunt and fish under Federal regulations, which can result in reduced opportunity and limited harvest. All harvests that occurred during the study years were opportunities available to nonrural residents under State regulation. All rural communities on the Kenai Peninsula have a high household percentage use of fish and wildlife during their study year, ranging from 90% to 100% of households. The Moose Pass area reported 99% of households using wild resources, 92 % of households harvesting, 87 % of households reported receiving, and 60% of households reported sharing their resources with others. The per person harvest in Moose Pass was 87 pounds.

Table 4. Comparative Community Characteristics; Fish and Wildlife Use (Source: ADF&G. 2020).

Rural/ Nonrural	Community		Study Year	% HH Surveye d	% Use	% Harv	% Recv	% Give	Pounds Per Person
Non Rural	Crown Point CDP	Moose Pass Area	2000	66.9%	99	92	87	60	87
	Moose Pass CDP								
	Primrose CDP								
	Nikiski		2014	12.90%	95	79	64	51	69
Seward Area		2000	6.2%	97	86	87	65	97	
Rural	Copper Landing		1990	61.60%	100	94	81	72	92
	Hope CDP	Hope Area	1990	64.10%	100	94	90	74	111
	Sunrise CDP								
	Nanwalek		2014	96.60%	90	84	84	71	253
	Ninilchik CDP	Ninilchik Area	1998	25.30%	99	94	94	85	164
	Happy Valley CDP								
	Port Graham CDP		2014	70.70%	100	98	100	90	218
Seldovia CDP	Combined Seldovia	2014	74.80%	99	94	97	76	138	
Seldovia Village CDP									

The ADF&G Division of Subsistence also conducts a statewide “Subsistence in Alaska” update on the harvest and use of wild resources in both rural and urban areas (Fall 2018). The 2017 update describes an average harvest of 145 pounds per person for the rural Southcentral Alaska area. The highest per person harvest of wild food in an urban or nonsubsistence area is 38 pounds in Valdez and the next highest is 32 pounds for the Kenai Peninsula urban area.

Effects of the Proposal

If this proposal is adopted, residents of Moose Pass will be eligible to practice subsistence harvesting on Federal public lands under Federal regulations inclusive of “All rural residents.” The adoption of this proposal does not guarantee residents will be qualified to participate in all harvest opportunities on Federal lands in their region. For that to occur, the community will need to pursue customary and traditional use determinations for fish and wildlife species in their area.

If this proposal is not adopted, the status of Moose Pass will remain “nonrural,” and residents will not be eligible to participate in resource harvest under Federal subsistence regulations. Residents seeking to harvest wild resources for subsistence purposes would continue to be required to do so under State of Alaska regulations.

OSM CONCLUSION

Support Proposal NR19-01 with **modification** to define the community of Moose Pass as encompassing the Moose Pass, Crown Point, and Primrose Census Designated Places.

Justification

Moose Pass shares a rural experience with other Southcentral rural communities that includes a reliance on wild foods, reduced amenities and services, geographic isolation, and a shared sense of identity as a cohesive rural community. Public testimony, harvest surveys, and harvest reports demonstrate consistent participation in hunting and fishing opportunities. All residents providing testimony described the importance of wild foods in their diet and home. Residents also cited access to fish and wildlife as a main reason for living in their community and referred to the high level of fish and wildlife use as a primary justification for their status as rural.

Moose Pass has limited local amenities and a geographic isolation that can hamper access to important hub communities with critical services during extreme weather events. The location of the community as situated within a mountain pass requires residents to plan for potential conditions that will limit travel throughout the year. Residents point to a lack of local amenities, services, and business as a key distinguishing feature between their community and nearest nonrural hub of Seward. Regardless of the proximity to Seward, most Moose Pass area residents travel into Anchorage for bulk shopping and other important services.

Significantly, Moose Pass is surrounded by Federal public lands upon which residents rely for most of their wild harvest. Residents consistently mention these lands as bordering their properties, providing resources, and contributing to the rural character of their community. Finally, public testimony and available sources indicate that the community of Moose Pass, as defined by resident perception, shared

experience, history, harvest patterns and other factors, extends beyond the boundaries described in the original proposal. The community of Moose Pass should be defined as inclusive of Crown Point, Moose Pass, and Primrose Census Designated Places.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Support RP19-01. The Council supports the proposal, as written by the proponent, based on testimony heard at its meetings as well as the public hearing held in Moose Pass in the fall of 2019. The Council toured Moose Pass in the fall of 2019 and recognized it as a rural community, also discussing the rural characteristics of Moose Pass during that fall 2019 meeting (including rural culture, economy, uses of fish and wildlife resources for sustenance, art and firewood; the sparse population of the area and lack of community services such as schools, airfield, police). The Council felt the discussion on this proposal was adequately stated in the final analysis as well as in transcripts of past meetings since the proposal was submitted.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Rural Proposal RP 19-01: This proposal changes the federal designation of Moose Pass from a nonrural to rural community, independent of the greater area of Seward.

Introduction: Moose Pass resident Jeffrey Bryden submitted proposal RP 19-01 to the Federal Subsistence Board (FSB) to change the federal nonrural designation of Moose Pass. In 1990, the FSB aggregated Moose Pass with Seward to create the Seward Nonrural Area.

While the State and Federal boards have different processes when assessing rural and nonrural determination, principal characteristics of subsistence communities defined by the state in AS 16.05.258 (c)(1-12) may be informative for the FSB in considering this proposal. These characteristics include social and economic structure; stability of the economy; extent and kind of employment; amount and distribution of cash income; cost and availability of goods and services; variety of fish and game used, the seasonal cycle of economic activity; the percentage of community members involved in hunting, fishing or using wild fish and game; harvest levels of fish and game; cultural, social and economic values associated with the taking and use of fish and game; geographic locations where community members hunt and fish; and the extent of sharing and exchange of fish and game.

In the spring of 2001, the Alaska Department of Fish and Game's (ADF&G) Subsistence Section conducted the first comprehensive harvest assessment of Moose Pass and Seward,

interviewing 203 residents of these communities. The study was designed to collect information about the harvest and use of wild fish, game and plant resources, demography, and aspects of the local cash economy such as employment and income. Results of this research are published in ADF&G's Technical Paper 271, [Wild Resource Harvests and Uses by Residents of Seward and Moose Pass, Alaska 2000](#). The goal of the study was to talk with representatives of a randomly selected sample of year-round households in communities along the first 38 miles of the Seward Highway, grouped in this study as Moose Pass and Seward. Households were asked for detailed information about their harvest and use of wild foods during the study year, as well as specific locations on the Kenai Peninsula and in the Prince William Sound area they use to hunt, fish, and gather wild plant resources over the previous ten-year period.

Most adults in these communities were employed: 74.5% in Moose Pass (population 402) and 86.1% in Seward (population 4,541) with much of the work being seasonal. Of those individuals with jobs, about half were employed year-round (60% in Moose Pass and 50% in Seward) and just over half of employed Moose Pass residents commuted to Seward (51.1%). Both communities reported an average of around 10 months of employment. Household incomes in the two communities were similar relatively high levels (\$61,523 for Seward and \$59,051 for Moose Pass) and households in each community reported a similar amount of money spent on food in the study year: \$5,600 in Seward and \$5,100 in Moose Pass, which represented 9.1% and 8.7% of the average household income, respectively. In contrast, communities off the road system on the Kenai Peninsula (Seldovia, Port Graham and Nanwalek) had relatively high seasonal employment with relatively low per capita income. The Seward and Moose Pass research findings indicated that, despite the presence of seasonally-available employment in Seward and Moose Pass, employment was relatively available and reliable, with cash incomes comparable to most populous areas of the state and generally higher than those of remote areas off the road system.

In both communities, almost all households reported using wild foods and a large majority of households fished, hunted and gathered resources. Reported harvest of wild foods were 87 pounds per person in Moose Pass and 97 pounds per person in Seward, measured in pounds usable weight. Moose Pass households reported harvesting 5.3 different resources during the study year and Seward harvested approximately 4.4 resources. Conversely, off-road communities on the Kenai Peninsula showed more reliance on wild foods. In 1998, residents of Nanwalek harvested on average 254 lb per person of wild foods and Port Graham residents harvested 253 lb per person. Diversity of wild foods is also notably different between the roaded and non-roaded areas of the Kenai Peninsula, with Nanwalek and Port Graham households using 16-20 kinds of wild foods.

This study found strong similarities between Moose Pass and Seward patterns of use of wild resources during the 2000/01 study year. Both communities had similar levels of harvest, ranges of resources used, and harvest composition. Despite contrasting population sizes,

Moose Pass and Seward had very similar demographic and economic characteristics, including length of residency, duration of cash employment and cash income. While most residents of Moose Pass and Seward reported sharing resources, in contrast to off-road communities on the Peninsula, neither had an extensive network of distribution or exchange that linked high harvesting households to less productive households. This latter pattern of sharing is a characteristic of communities heavily reliant on subsistence as a way of life.

Demographic information gathered from the above-mentioned study revealed that Moose Pass residents have much in common with Seward residents. The percentage of household heads born in Alaska was 11.0% for Moose Pass and 15.1% for Seward. The percentage of Alaska Native residents was also similar: 5.6% of the total population for Moose Pass and 6.8% for Seward. The average length of residence of households was similar: 12 years for Moose Pass and 12.4 years for Seward. The demographics of off-road communities on the Kenai Peninsula differ considerably. In a 2014 ADF&G study, Alaska Native residents made up 91.9% of the community of Nanwalek and 59.1% of household heads were born locally; the mean length of residency was 31 years. For Port Graham, Alaska Native residents made up 89.5% of the community with 53.2% of household heads born locally and a mean length of residency of 31.4 years.

Residents of Moose Pass do harvest and use wild foods in some quantity and while these harvests are an important aspect of life in Moose Pass, the overall contribution of these wild foods to the socioeconomic system and other characteristics of subsistence communities are less significant than they are for the more remote communities on the Kenai Peninsula that have rural designation.

Impact on Subsistence Users: The FSB may need to consider customary and traditional determinations for the residents of Moose Pass. They would then need to be considered in existing Federal fisheries and hunts which given the allocative situation on the Kenai Peninsula could diminish opportunities for other Federal subsistence users.

Impact on Other Users: Other users, such as Seward residents, may be prohibited from fishing or hunting their traditional areas, due to the small harvestable portions in local areas.

Opportunity Provided by State: The State of Alaska provides hunting and fishing opportunities under state regulations.

Conservation Issues: Under the current management regime, no conservation concerns are expected to result from adopting this proposal.

Enforcement Issues: None.

Recommendation: ADF&G **OPPOSES** this proposal given the strong similarities between

the community of Moose Pass and Seward, and the differences between Moose Pass and other rural communities on the Kenai Peninsula. We encourage the FSB to consider the characteristics described above, and in the referenced study, when considering this rural designation.

FCR21-01 Executive Summary	
General Description	Closure Review FCR21-01 reviews the closure of the Unalakleet River upstream of the confluence of Chirosky River to the taking of Chinook Salmon for all users.
Current Regulation	<p>§ __.27(i)(2)</p> <p><i>(C) Federal public waters of the Unalakleet River, upstream from the mouth of the Chirosky River, are closed to the taking of Chinook salmon from July 1 to July 31, by all users. The BLM field manager is authorized to open the closed area to Federally qualified subsistence users or to all users when run strength warrants.</i></p>
OSM Preliminary Conclusion	Maintain status quo
Seward Peninsula Subsistence Regional Advisory Council Recommendation	Maintain status quo
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Neutral
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW

FCR21-01

Closure Location: Unalakleet River upstream of the confluence of Chirosky River—Chinook Salmon

Current Federal Regulation

Norton Sound-Port Clarence Area

§ __.27(i)(2)

(C) Federal public waters of the Unalakleet River, upstream from the mouth of the Chirosky River, are closed to the taking of Chinook salmon from July 1 to July 31, by all users. The BLM field manager is authorized to open the closed area to Federally qualified subsistence users or to all users when run strength warrants.

Closure Dates: July 1 through July 31

Current State Regulation

5 AAC 01.160. Fishing seasons and periods

(b) In the Norton Sound District, fish may be taken at any time except as follows:

(2) in Subdistricts 2 - 6, commercial fishermen may not fish for subsistence purposes during the weekly closures of the commercial salmon fishing season, except that from July 15 through August 1, commercial fishermen may take salmon for subsistence purposes seven days per week in the Unalakleet and Shaktoolik River drainages with gillnets which have a mesh size that does not exceed four and one-half inches, and with beach seines;

(3) in the Unalakleet River from June 15 through July 15, salmon may be taken only during periods established by emergency order from 8:00 a.m. Monday until 8:00 p.m. Tuesday and from 8:00 a.m. Friday until 8:00 p.m. Saturday;

(6) notwithstanding the provisions of (2) and (3) of this subsection, in Subdistricts 5 and 6, salmon other than king salmon may be taken from July 1 through August 10 by beach seine with a mesh size no larger than four and one-half inches; all king salmon caught must be returned immediately to the water alive; if the commissioner determines that it is necessary for the conservation of king salmon, the commissioner may, by emergency order, close the season and immediately reopen the season during which the fishing time, area, and beach seine mesh size may be adjusted;

5 AAC 70.011 Northwestern Area—Sport Fishing

(c) The following are the exceptions to the general bag, possession, and size limits, and fishing seasons specified in (a) and (b) of this section for the Northwestern Area:

(9) in the Unalakleet River drainage,

(A) the bag and possession limit for king salmon is two fish, of which only one fish may be 20 inches or greater in length;

(B) the annual limit for king salmon 20 inches or greater in length is two fish; an angler fishing for king salmon must possess and complete a current year's nontransferable harvest record as described in 5 AAC 70.024(b);

Regulatory Year Initiated: 2009

Customary and Traditional Use Determinations

All residents of Norton Sound-Port Clarence Area have a customary and traditional use determination for salmon in the Unalakleet River.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 50 CFR 100.3. For the Unalakleet River drainage Federal public waters include the upper 81 river miles of the Unalakleet River (106 river miles in total length) (**Figure 1**). This portion of the river is designated a National Wild River and is administered by the Bureau of Land Management (BLM).

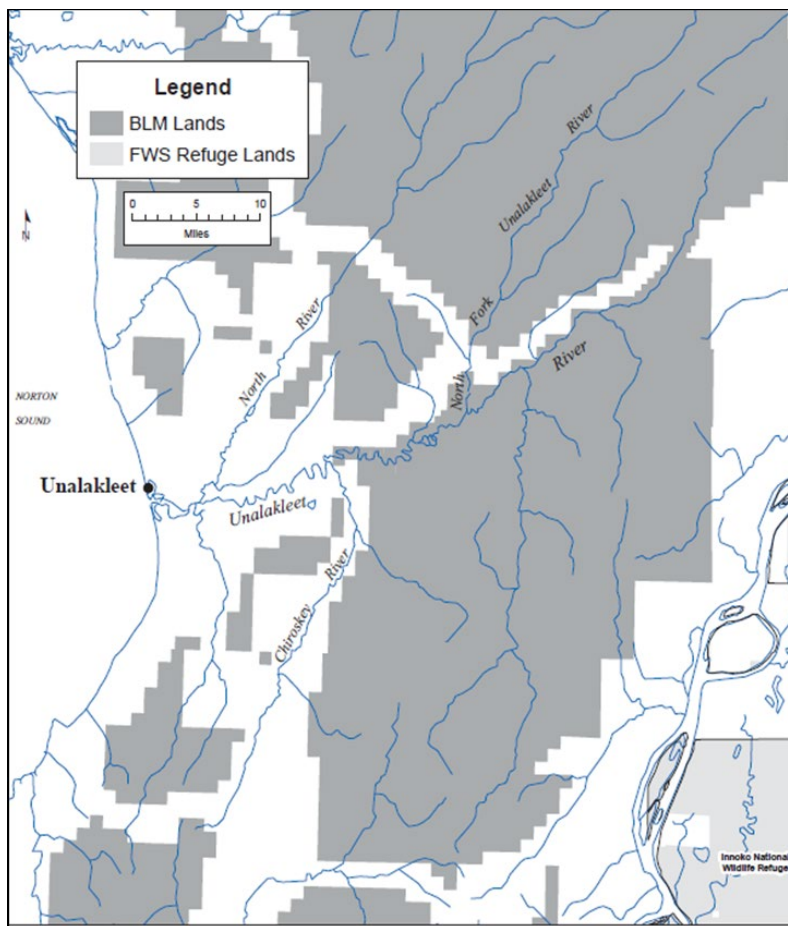


Figure 1. Unalakleet River Drainage. Source OSM 2009.

Regulatory History

Federal public waters of the Unalakleet River were closed to the taking of Chinook Salmon through Special Action authority in 2006 through 2008. Proposal FP09-14 was submitted by Kathy Johnson on behalf of the Native Village of Unalakleet. The original proposal applied only to non-Federally qualified users and suggested an earlier closure window. The request was subsequently modified by the proponent to reflect the current closure. The proponent submitted this proposal as a conservation measure to provide Chinook Salmon additional protection while traveling to spawning grounds. At its January 2009 meeting, the Federal Subsistence Board (Board) adopted this proposal with modification, as recommended by the Seward Peninsula Subsistence Regional Advisory Council (Council), and with additional modification to specifically refer to the BLM field manager and provide management flexibility. The closure became effective April 1, 2009.

State Management

The Unalakleet and Shaktoolik Subdistricts are managed as one fishery by the Alaska Department of Fish and Game (ADF&G) because past studies have shown that salmon bound for these subdistricts intermingle (Menard et. al. 2020). Beginning in 2004, the Alaska Board of Fisheries (BOF) identified Chinook Salmon in the Unalakleet and Shaktoolik subdistricts as stocks of yield concern. In February 2007, the BOF reconfirmed the identification of Unalakleet and Shaktoolik Chinook Salmon as stocks of yield concern (Menard 2007). The BOF took further action at its February 2007 meeting to increase escapement by adopting a more conservative Chinook Salmon management plan (5AAC 04.395).

Under the new management plan, a subsistence fishing schedule was placed into regulation, as well as reductions in the sport fishing daily bag and annual possession limits. Additionally, commercial fishing directed at Chinook Salmon can only occur if ADF&G projects the midpoint of the North River tower sustainable escapement goal range will be achieved.

Under State regulations, the Unalakleet River drainage is open to sport fishing year-round. Any salmon removed from the water must be retained. The limit for Chinook Salmon is two per day, two in possession, only one of which may be 20 inches or longer. There is an annual limit of two Chinook Salmon 20 inches or longer ([5 AAC 70.011](#)).

Closure last reviewed: 2010 (FCR10-03)

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

Section §815(3) of ANILCA states:

Nothing in this title shall be construed as – (3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on public lands (other than national parks and park 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.

The Board recognized the support from local subsistence users, affected villages, and the State's local fish and game advisory committee to close Federal public waters in the interest of protecting fishery resources and rebuild the salmon stocks. It was clear to the Board that even though few fish would likely be gained initially by this action, the action would have an impact and it was important to the local users to rebuild the stocks. The Board's action captured the intent of the Council's recommendation for flexibility with the closure and assigned authorization to the BLM field manager to lift the closure when run strength warranted such action.

Council Recommendation for Original Closure

Support Proposal FP09-14 **with modification** to close the Federal public waters of the Unalakleet River upstream from the mouth of the Chirosky River to the taking of Chinook Salmon from July 1– July 31 to all users. The recommended July closure could be amended by the inseason manager if the run strength warranted it.

The modified regulation read:

Norton Sound — Port Clarence Area

§ __.27(i)(2)(ii) In the Norton Sound District, you may take fish at any time except as follows

(B) In the Unalakleet River from June 1 through July 15, you may take salmon only from 8:00 a.m. Monday until 8:00 p.m. Saturday;

(1) Federal public waters of the Unalakleet River, upstream from the mouth of the Chirosky River, are closed to the taking of Chinook salmon from July 1 to July 31, by all users. This closure may be relaxed by the inseason manager if run strength warrants.

Unalakleet people understood this issue and the status of the resource. They needed to reduce restrictions on subsistence users and make management of the fishery easier to understand. Local users were not able to get the fish they needed for subsistence. Focus was on conservation of the resource to bring the fishery back; there was potential for the fishery in this area to expand. This modification was supported by the Native Village of Unalakleet.

State Recommendation for Original Closure

Oppose. Adoption of this proposal will not improve the health of the Unalakleet River Chinook Salmon stock and will not improve opportunity for subsistence use. In years of low returns, State closures or restrictions are in place before Chinook reach the waters subject to Federal jurisdictional claims. The proposed closure does not meet the requirements of the Board’s Closure Policy adopted August 2007.

Biological Background

The majority of Chinook Salmon subsistence harvest occurs under State jurisdiction in marine waters at the mouth of the Unalakleet River. Federal waters include the upper 81 river miles of the Unalakleet River, which is designated a National Wild River and administered by the BLM. This portion of the river contains spawning habitat used by Chinook Salmon.

Chinook Salmon returns to the drainage have been poor since 2000. No escapement goal is established for the Unalakleet River and escapements have ranged from 505 – 6,641. The Chinook Salmon escapement of 6,641 fish in 2019 was the highest on record (**Table 1**). This occurred only after severely restricting the subsistence fishing. Over time the Chinook Salmon escapements into the Unalakleet Rivers have not increased in response to commercial fishing closures and increasingly restrictive subsistence fishing.

Table 1. Chinook Salmon subsistence harvest, sport fishery harvest and estimated escapement to Unalakleet River 2010-2019 (Menard etal 2019, Vincent-Lang 2019).

Year	Subsistence Harvest	Sport Harvest	Unalakleet River Weir Count
2010	2,120	61	1,021
2011	1,359	54	1,030
2012	1,235	0	823
2013	861	0	667
2014	1,106	0	1,126
2015	1,952	0	2,789
2016	1,648	78	505
2017	1,075	13	2,934
2018	1,161		3,326
2019	1,459		6,641
10-year average	1,398	26	2,086

Harvest History

Due to low numbers of returning Chinook Salmon, the commercial directed fishery has been closed since 2005 (Menard 2020). In addition, restrictions to the subsistence fishery have often been required to reach escapement on the Unalakleet River. In June 2019, subsistence salmon harvest restrictions were again put in place to protect Chinook Salmon returning to the Unalakleet River, allowing only one 24-hour fishing period a week in the marine waters with gear restricted to 6 inches or smaller mesh size. The 2019 subsistence Chinook Salmon harvest of 1,459 fish was slightly above the 10-year average of 1,398. Sport harvest of Chinook Salmon on the Unalakleet continues to be low (**Table 1**).

OSM CONCLUSION

- maintain status quo
- modify or eliminate the closure

Justification

Unalakleet River Chinook Salmon runs have been below expectation since 2000. A Chinook Salmon-directed commercial fishery remains closed and the subsistence and sport fisheries continue to be restricted. While 2019 showed an increase in returning Chinook Salmon, conservation efforts on Federal public waters of the Unalakleet River should continue until a positive trend is established.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Seward Peninsula Subsistence Regional Advisory Council

Maintain status quo; The Council recognizes that 2019 reflected a healthy return of Chinook Salmon to the Unalakleet River. The Council is concerned, however, that due to COVID-19, the weir operation last summer had both gear and count limitations and therefore cannot be relied upon to provide any updated trend information. The Council believes that until Chinook Salmon returns display consistently increased trends through time, the regulatory closure should remain in place. The Council is also concerned about smaller sized fish, which could represent a systemic issue for this population.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Neutral

FCR21-04 Executive Summary	
General Description	Closure Review FCR21-04 reviews the closure to the harvest of all fish in the Jim River drainage by Federally qualified subsistence users.
Current Regulation	Refer to pages 340-341.
OSM Conclusion	Eliminate the closure and modify regulations. Rescind the closure to the harvest of all fish in the Jim Creek drainage by Federally qualified subsistence users; allow only rod and reel fishing. Refer to pages 349-350 to see the modified regulation.
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	Defer to Western Interior Alaska Subsistence Regional Advisory Council.
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	Eliminate the closure and modify regulations. Rescind the closure to the harvest of all fish in the Jim Creek drainage by Federally qualified subsistence users; allow only rod and reel fishing and a Grayling harvest and possession limit of 10 per day.
Seward Peninsula Subsistence Regional Advisory Council Recommendation	Eliminate the closure and modify regulations. Rescind the closure to the harvest of all fish in the Jim Creek drainage by Federally qualified subsistence users; allow only rod and reel fishing and a Grayling harvest and possession limit of 10 per day.
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	Defer to Western Interior Alaska Subsistence Regional Advisory Council.
North Slope Subsistence Regional Advisory Council Recommendation	Defer to Western Interior Alaska Subsistence Regional Advisory Council.
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Neutral
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW
FCR21-04

Closure Location: Jim River—all fish

Current Federal Regulation

Yukon-Northern Area

§ __.27(e)(3)

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time... You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in this paragraph (e)(3).

(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060 [emergency orders]), unless superseded by a Federal special action.

(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

(viii) In Subdistrict 4A after the opening of the State commercial salmon fishing season, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period; however, you may take Chinook salmon during the State commercial fishing season, with drift gillnet gear only, from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday.

(ix) You may not subsistence fish in the following drainages located north of the main Yukon River:

(C) Jim River including Prospect and Douglas Creeks.

(xiii) You may take salmon only by gillnet, beach seine, dip net, fish wheel, or rod and reel, subject to the restrictions set forth in this section.

(xvii) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(B) You may not use an aggregate length of set gillnet in excess of 150 fathoms, and each drift gillnet may not exceed 50 fathoms in length.

(C) In Districts 4, 5, and 6, you may not set subsistence fishing gear within 200 feet of other fishing gear operating for commercial, personal, or subsistence use

(xviii) In District 4, from September 21 through May 15, you may use jigging gear from shore ice.

Relevant Federal Regulations

Subsistence Taking of Fish

§___.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:

(ii) Except as otherwise provided for in this section, if you are not required to obtain a subsistence fishing permit for an area, the harvest and possession limits for taking fish for subsistence uses with a rod and reel are the same as for taking fish under State of Alaska subsistence fishing regulations in those same areas. If the State does not have a specific subsistence season and/or harvest limit for that particular species, the limit shall be the same as for taking fish under State of Alaska sport fishing regulations.

Closure Dates: Year-round

Current State Regulations

Yukon Area—Subsistence

5 AAC 01.225 Waters closed to subsistence fishing

(b) The following drainages located north of the mainstem Yukon River are closed to subsistence fishing:

(4) Jim River, including Prospect Creek and Douglas Creek;

Yukon Area—Sport

5 AAC 73.010. Seasons, bag, possession, and size limits, and methods and means for Yukon River Area

(a) Except as otherwise specified in this section or through an emergency order issued under AS 16.05.060, sport fishing is permitted year round in the waters of the Yukon River Area.

(b) Except as otherwise specified in (c) of this section, the following are the general bag, possession, and size limits for finfish and shellfish in the waters of the Yukon River Area:

(1) king salmon 20 inches or greater in length: the bag and possession limit is three fish, of which only two fish may be 28 inches or greater in length;

(2) salmon, other than king salmon: the bag and possession limit is 10 fish, with no size limit;

(3) Arctic char/Dolly Varden and lake trout:

(B) in all flowing waters: the bag and possession limit is 10 fish of all species combined, of which only two fish may be 20 inches or greater in length, and of which only two fish may be lake trout;

(5) Arctic grayling: the bag and possession limit is five fish, with no size limit;

(6) sheefish: the bag and possession limit is 10 fish, with no size limit;

(7) northern pike: the bag and possession limit is 10 fish, with no size limit;

(8) burbot: the bag and possession limit is 15 fish, with no size limit;

(c) The following are the exceptions to the general bag, possession, and size limits, and fishing seasons specified in (a) of this section for the Yukon River Area:

(4) in the Dalton Highway corridor (Trans-Alaska Pipeline corridor) within the Yukon River Area, which is described as a corridor five miles wide on each side of the Dalton Highway north of the Yukon River, excluding the Ray River,

(A) sport fishing for salmon is closed;

(B) lake trout may be taken only by catch-and-release fishing, and may not be possessed or retained; all lake trout caught must be immediately released;

(C) the bag and possession limit for northern pike is five fish, of which only one fish may be 30 inches or greater in length;

Relevant State Regulations

Yukon Area—Subsistence

5 AAC 01.230. Subsistence fishing permits

(a) Except as provided in this section and 5 AAC 01.249, fish may be taken for subsistence purposes without a subsistence fishing permit.

Regulatory Year Initiated: 1992

Regulatory History

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in non-navigable waters within and adjacent to Federal public lands (57 Fed. Reg. 22940 [May 29, 1992]). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations. The closure under review in this analysis was incorporated into Federal regulations in this manner and has not been subsequently modified. In 1999, the Federal Subsistence Board also adopted Federal regulations for fish in navigable waters within and adjacent to Federal public lands where there is a Federal reserved water right (64 Fed. Reg. 1276 [January 8, 1999]). These regulations do not apply on navigable waters within and adjacent to Bureau of Land Management general domain lands (see CFR 50 100.3).

Customary and Traditional Use Determination

Residents of the Yukon River drainage and the community of Stebbins have a customary and traditional use determination for salmon, other than fall Chum Salmon, in the Yukon River drainage.

Residents of the Yukon River drainage and the communities of Chevak, Hooper Bay, Scammon Bay, and Stebbins have customary and traditional use determination for fall Chum Salmon in the Yukon River drainage.

Residents of the Yukon-Northern Area have a customary and traditional use determination for freshwater species other than salmon in the Yukon River drainage.

Extent of Federal Public Lands/Waters

For purposes of this analysis, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. Approximately three miles of Jim River exist within the Kanuti Refuge boundary, managed by the U.S. Fish and Wildlife Service (**Figure 1**). The remainder of the Jim River drainage is general domain land managed by the Bureau of Land Management (BLM). On general domain lands managed by the BLM, these regulations apply only to non-navigable waters.

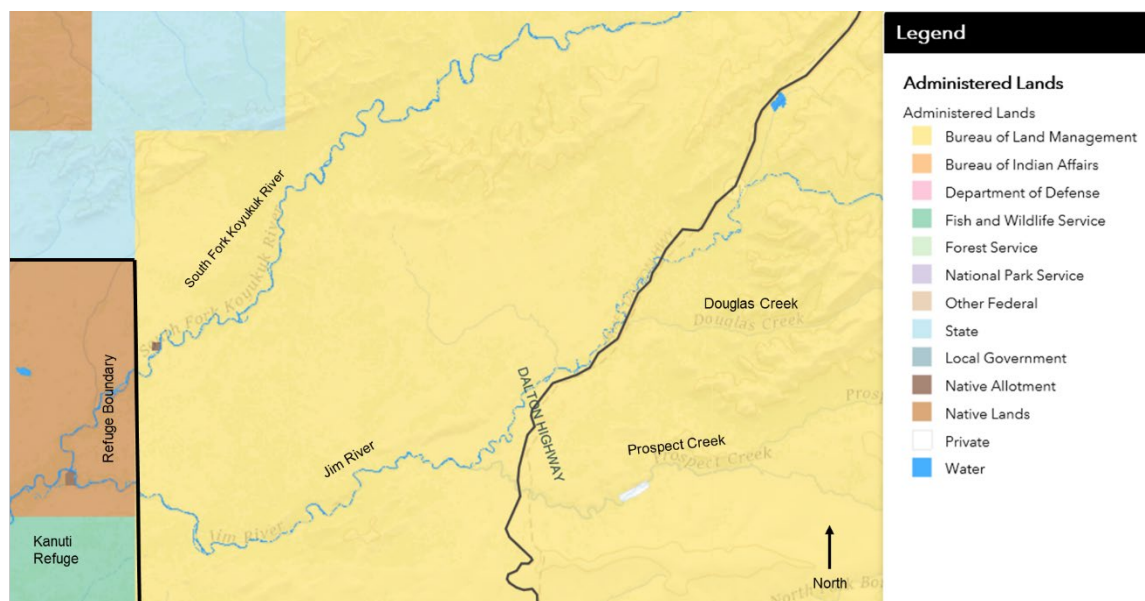


Figure 1. Lower Jim River drainage land ownership (BLM 2020).

Closure last reviewed

There has been no previous closure review.

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

Section §815(3) of ANILCA states:

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

The Federal Subsistence Management Program justification for the original closure in Federal regulations was to minimize disruption to the State’s continuing fish and game management, because of the uncertainty over the resumption of State management of subsistence, yet still fulfill the requirements of Title VIII of ANILCA (55 FR 27114, June 29, 1990).

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background

Coho, Chum, and Chinook salmon are known to spawn and rear in the Jim River. Aerial surveys have been flown sporadically from 1960 to 2015 to count Chinook and Chum salmon in the Jim River (ADF&G 2020a). The 1960 to 2015 average count of live Chinook Salmon is 120 fish with a range of 0–358 fish. The average number of Chinook Salmon carcasses for these same years is 13 with a range of 0–126. Summer Chum Salmon averaged 278 live fish (range 0–1,484) and 116 carcasses (range 0–1,690). Fall Chum Salmon averaged 103 live fish (0–1,057), and 41 carcasses (0–672). During 2009–2012, and 2015, a mean of 183 Chinook Salmon and 462 Chum Salmon were counted per year (ADF&G 2020a). There is not an escapement goal for any salmon species in this drainage.

According to the Alaska Freshwater Fish Inventory, the predominant resident species found in the Jim River drainage include Arctic Grayling, Burbot, Round Whitefish, and Slimy Sculpin (ADF&G 2020b). Information is limited on Burbot, Round Whitefish, and Slimy Sculpin. In addition, the possibility exists to find a few other species occurring in the drainage, such as Northern Pike and other whitefish species.

Arctic Grayling are found throughout the Jim River drainage. Current population data for Arctic Grayling in the Jim River are lacking; however, radio telemetry and demographic studies were performed in the 1990s. The estimated number of fish found in a 6.4 km stretch of Prospect Creek near the Dalton Highway was 770 fish with a density of 120 fish/km in 1995 (Fish 1997). The Jim River population was estimated in 1995 and again in 1997. In 1995, the Jim River estimates came from a 10 km stretch near the Dalton Highway and were between 5,100 and 5,400 Arctic Grayling >150 mm with a density around 240 fish/km. A sample of Arctic Grayling were aged, with an age range between 2 and 15 years. Approximately 32% of the population was 5 years old, the most common age reported from this study (Fish 1997). A similar study was completed in 1997, estimating around 12,000 Arctic Grayling >150 mm over a 21.3 km section of the river located near the Dalton Highway, a density of 566 fish/km. The sampled fish ranged from 2–16 years old, with 19% of the samples being 5 years old, the most common age during this study (Fish 1997).

Cultural Knowledge and Traditional Practices

Wiseman and Coldfoot

Wiseman and Coldfoot fall within the traditional boundaries of the Koyukon Athabascan people, and both were established as town sites as the result of the gold mining industry. Wiseman's population

was 320 in 1916 but declined to an estimated population of 11 by 2018 (Holen et al. 2012; ADLWD 2019). The population of Coldfoot peaked at 350 between 1902 and 1904, but was completely abandoned by 1930 (Holen et al. 2012). The site was re-established in the 1970s as a result of the construction of the Dalton Highway and the Trans-Alaska Pipeline. As of 2018 there were an estimated eight full-time residents in Coldfoot (ADLWD 2019). The area also includes a small number of residents along the Dalton Highway Corridor in camps, and other isolated households.

Wiseman is a Resident Zone Community of Gates of the Arctic National Park. In 2011, the only year in which subsistence surveys were conducted, all residents of Wiseman participated in subsistence activities and the per capita harvest of wild resources was 294 pounds (Holen et al. 2012). Eighty-five percent of the community participated in subsistence fishing, and everyone in the community used fish, although in small quantities. Because of local closures, Wiseman residents harvest their salmon from other locations, such as the Copper and Yukon rivers (Holman et al. 2012). Only Sockeye Salmon were harvested, at 12 pounds per capita. No Chinook Salmon were harvested by Wiseman residents that year. However, Chinook Salmon were shared with residents by fishers from outside the community, then distributed among residents.

Wiseman has a documented use and search area for non-salmon fish on the Jim River, within and adjacent to the Dalton Highway Corridor. Wiseman harvested 13 pounds per capita of non-salmon fish in 2011, including Arctic Grayling, Longnose Sucker, and Burbot. According to Holen et al.:

Since the salmon fishing closure was initiated, non-salmon fish have become even more important to Wiseman residents. During the summer months many community members engage in rod and reel fishing for Arctic Grayling and whitefishes along the Koyukuk and Jim rivers in the vicinity of Wiseman (2012: 369).

Table 1: Estimated number of nonsalmon fish and corresponding pounds per person harvested by residents of Wiseman in 2011 (ADF&G 2020).

Fish species	Estimated number of fish	Pounds per person
Grayling	111	5.97
Sucker	40	2.15
Whitefish	25	0.96
Char	11	1.10
Burbot	9	1.66
Lake Trout	9	0.96
Northern Pike	4	1.38
Dolly Varden	2	0.13

In 2011, 88% of Coldfoot residents participated in efforts to harvest wild resources. Coldfoot residents focus mostly on harvesting large land mammals. During the survey year, no residents of the community fished, but 25% of the community received salmon from residents of other communities.

Evansville and Bettles

Like Wiseman and Coldfoot, Evansville and Bettles fall within the traditional territory of the Koyukon Athabascans. Both communities are sparsely populated today. In the late 1800s, members of several different groups, including Upper and Middle Koyukon, Kobuk Iñupiat, prospectors, and traders moved to the area (Holen et al. 2012), and established an intermixed community. In 1945 a U.S. Navy airstrip was built at Bettles Field, five miles upstream of “Old Bettles” (Holen et al. 2012).

Construction on the airstrip drew people back into the area. Evansville was established as a mixed, primarily Alaska Native settlement, adjacent to Bettles Field. Evansville can only be reached by plane during most of the year, although an ice road connects it to the Dalton Highway between January and March (Holen et al. 2012). In 2018, Evansville had an estimated population of eight and Bettles had an estimated population of 11 (ADLWD 2019).

In the 2011 subsistence surveys, 85% of Evansville residents participated in gathering wild resources. Harvest effort for most resources focused on the area in the immediate vicinity of Evansville; however, this was not the case for salmon, which are not abundant in the vicinity of Evansville or Bettles. According to Holen et al.: “The Koyukuk River is a principal tributary of the Yukon River and Evansville’s position on the most northern branch of the Koyukuk River means that relatively few spawning salmon survive the migration to reach the vicinity of Evansville on the South Fork” (2012: 255–256).

Salmon reaching the vicinity of Evansville have historically been of poor quality, and were used primarily to feed dogs. When use of dog teams declined, so did local salmon fishing efforts. In 2011, eight percent of households participated in salmon fishing, and salmon made up 14% of the wild resource harvest by weight (Holen et al. 2012). However, the entire salmon harvest came from locations quite distant to Evansville, perhaps due to especially poor runs on the Yukon and its tributaries near Evansville. In 2011, nonsalmon fish were taken in the vicinity of Evansville, as well as from lakes to the north of the village. Nonsalmon fish caught include Lake Trout and Arctic Grayling.

Evansville residents stated that local fish are now of extremely low quality, which they attribute to warming river temperatures as well as increased levels of silt and debris in the water. Some residents noted that over-regulation of set nets have prevented people from following traditional fishing practices in their area (Holen et al. 2012).

Bettles, adjacent to Evansville, is located on the margin of the Kanuti National Wildlife Refuge. In 2011, 88% of residents participated in harvesting wild resources, and 100% used these resources (Holen et al. 2012). In 2011, 13% of residents fished for salmon, catching only Chum Salmon. More people (25%) fished for nonsalmon fish, including Arctic Grayling, Northern Pike, and Lake Trout (Holen et al. 2012).

Harvest History

There is no legal Federal or State subsistence harvest in the Jim River drainage. However, it is open to sport fishing. During years when sport fishing for Chinook Salmon isn’t closed or restricted by

Emergency Order, Chinook Salmon can be harvested with a limit of 3 per day, 3 in possession over 20 inches (only 2 can be over 28 inches), and 10 per day, 10 in possession for under 20 inches. Other salmon (Chum and Coho are the species most likely to be encountered) have a 10 per day, 10 in possession limit. Arctic Char, Dolly Varden, and Lake Trout can be harvested in the Jim River with a limit of 10 per day, 10 in possession (only 2 can be 20 inches or longer). Grayling have no size limit and have a limit of 5 per day, 5 in possession. Sheefish and Northern Pike have a limit of 10 per day, 10 in possession. In addition, Burbot have a 15 per day, 15 in possession limit on the river.

The Jim River crosses the Dalton Highway Corridor. In this area, sport fishing for salmon is closed. In addition, retention of Lake Trout is prohibited and the limit of Northern Pike is 5 per day, 5 in possession (only one of which may be 30 inches or longer).

There is no subsistence harvest to report in this system as it is closed to subsistence fishing. The regional Federal subsistence regulations for the Yukon Area would apply if the closure is removed. Fishing for salmon would be allowed, and Federal subsistence fishing schedules, openings, closings, and fishing methods would be the same as those issued by State emergency order for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal special action. Salmon could be taken by gillnet, beach seine, dip net, fish wheel, or rod and reel. Fish other than salmon could be taken under any gear listed in the fishing regulations. Subsistence rod and reel harvests would be limited by State sport fishing harvest and possession limits.

OSM CONCLUSION

- maintain status quo**
 modify or eliminate the closure

The OSM conclusion is to eliminate the closure and modify regulations to allow Federally qualified subsistence users to use rod and reel to harvest fish in the Federal public waters of the Jim River drainage including Prospect Creek and Douglas Creek. Limits would be the same as those listed under ADF&G sport fishing regulations (see §__.27(b)(16)(ii) at Relevant Federal Regulations, above).

The modified regulation should read:

Yukon-Northern Area

§__.27(ix)(C)

(ix) You may not subsistence fish in the following drainages located north of the main Yukon River:

~~(C) Jim River including Prospect and Douglas Creeks.~~

(xii) You may take salmon only by gillnet, beach seine, dip net, fish wheel, or rod and reel, subject to the restrictions set forth in this section.

(D) In the Jim River including Prospect and Douglas Creek you may harvest salmon with rod and reel only.

(xvii) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(G) In the Jim River including Prospect and Douglas Creeks you may harvest fish other than salmon with rod and reel only.

Justification

Currently this drainage is closed to fishing by Federally qualified subsistence users and remains open to other uses. There is likely a small amount of harvest under restricted State sport fishing, predominantly near the Dalton Highway. This system should be open to limited subsistence harvest. If this closure is modified to open to subsistence harvest, OSM recommends the harvest be restricted to rod and reel with low harvest and possession limits of salmon in order to protect healthy populations in the system.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation

Defer to Western Interior Alaska Subsistence Regional Advisory Council. This stream is in that region and they would be most familiar with subsistence fishing communities in this area.

Western Interior Alaska Subsistence Regional Advisory Council Recommendation

Eliminate the closure to the harvest of all fish in the Jim Creek drainage by Federally qualified subsistence users; **modify** existing regulations to allow rod and reel only and a Grayling harvest and possession limit of 10 per day.

The modified regulation should read:

Yukon-Northern Area

§___.27(ix)(C)

(ix) You may not subsistence fish in the following drainages located north of the main Yukon River:

~~(C) Jim River including Prospect and Douglas Creeks.~~

(xii) You may take salmon only by gillnet, beach seine, dip net, fish wheel, or rod and reel, subject to the restrictions set forth in this section.

(D) In the Jim River including Prospect and Douglas Creek you may harvest salmon with rod and reel only.

(xvii) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(G) In the Jim River including Prospect and Douglas Creeks you may harvest fish other than salmon with rod and reel only; the grayling harvest and possession limit is 10 per day.

This closure was authorized to minimize the disruption of the State's continuing fish and game management of subsistence, while at the same time fulfilling the requirements of ANILCA. The Jim River is currently excluded from the list of rivers where subsistence use is permitted along the Dalton Highway Corridor. Under this regulation, use has been closed to Federally qualified subsistence users, but open to sport fishing under State regulations. The Council believes there is verifiable traditional use of salmon in this river and a limited harvest by rod and reel should be allowed to occur. The Council also believes that if subsistence users are going to travel down the river for grayling, the bag limit should be increased to justify time and expense. Allowing for a small traditional harvest of salmon, along with a reasonable harvest of grayling would re-establish a subsistence priority use of this resource.

Seward Peninsula Subsistence Regional Advisory Council Recommendation

Eliminate the closure to the harvest of all fish in the Jim Creek drainage by Federally qualified subsistence users; **modify** existing regulations to allow rod and reel only and a Grayling harvest and possession limit of 10 per day.

The modified regulation should read:

Yukon-Northern Area

§___.27(ix)(C)

(ix) You may not subsistence fish in the following drainages located north of the main Yukon River:

~~(C) Jim River including Prospect and Douglas Creeks.~~

(xii) You may take salmon only by gillnet, beach seine, dip net, fish wheel, or rod and reel, subject to the restrictions set forth in this section.

(D) In the Jim River including Prospect and Douglas Creek you may harvest salmon with rod and reel only.

(xvii) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(G) In the Jim River including Prospect and Douglas Creeks you may harvest fish other than salmon with rod and reel only; the grayling harvest and possession limit is 10 per day.

The Council agrees with the decision of the Western Interior Alaska Subsistence Regional Advisory Council to eliminate and modify this closure. The Council wishes to recognize a subsistence priority for the communities that use this important resource.

Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation

Defer to Western Interior Alaska Subsistence Regional Advisory Council. The Council considers it to be more appropriate for the home region to make recommendations to the Board on this matter.

North Slope Subsistence Regional Advisory Council Recommendation

Defer to Western Interior Alaska Subsistence Regional Advisory Council. This stream is in that region and they would be most familiar with subsistence fishing communities in this area.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

No comments.

FCR21-06 Executive Summary	
General Description	Closure Review FCR21-06 reviews the closure to the harvest of all fish in the Toklat River drainage by Federally qualified subsistence users from August 15 through May 15.
Current Regulation	<p>§ __.27(e)(3)</p> <p>****</p> <p><i>(xii) You may not subsistence fish in the Toklat River drainage from August 15 through May 15.</i></p>
OSM Conclusion	Eliminate the closure
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	Eliminate the closure
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	Eliminate the closure
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	Eliminate the closure
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Neutral
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW
FCR21-06

Closure Location: Toklat River—all species

Current Federal Regulation

Yukon-Northern Area

§ __.27(e)(3)

(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060 [emergency orders]), unless superseded by a Federal special action.

(xii) You may not subsistence fish in the Toklat River drainage from August 15 through May 15.

Closure Dates: August 15 through May 15

Current State Regulation

Yukon-Northern Area – All Fish

5 AAC 01.249

(6) for management of the Toklat River salmon stocks, the Kantishna River and Subdistricts 5-A and 6-A fisheries will be managed to achieve the established spawning escapement goals and the following provisions will apply:

(A) in the Toklat River drainage, the area between approximately one mile upstream and two miles downstream of the Kobi-McGrath trail crossing, enclosed by the following four points: 64_ 08.21' N. lat., 150_ 01.16' W. long., to 64_ 08.21' N. lat., 149_ 58.38' W. long., to 64_ 10.66' N. lat., 150_ 02.09' W long., to 64_ 10.66' N. lat., 149_ 59.72' W. long., is closed to subsistence fishing from August 15 through May 15;

(iii) based on an evaluation of inseason run strength indicators, the commissioner may, by emergency order, reopen the Kantishna River fall season chum salmon subsistence fishery and allow the fishery to exceed the 2,000 fall chum salmon harvest limit if indications are that the Toklat River fall chum salmon minimum escapement goals will be achieved; the commissioner will close that fishery when the commissioner determines that it is necessary for the conservation and protection of chum salmon.

Regulatory Year Initiated: 1992

Customary and Traditional Use Determination

Portions of Denali National Park pre-dating ANILCA are closed to subsistence fishing. Subsistence in the remainder of the park and preserve is limited to the resident zone communities of Cantwell, Telida, Lake Minchumina, and Nikolai, as well as individuals residing outside of these communities who have a personal or family history of subsistence use within the park and preserve (and have therefore been granted subsistence use permits).

Regulatory History

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in non-navigable waters within and adjacent to Federal public lands (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations which previously applied to those waters. The headwaters of the Toklat River, and most of its non-navigable waters, were situated within that portion of Denali National Park closed to subsistence uses. The closure under review in this analysis was incorporated into Federal regulations in this manner, and has not been subsequently modified. In 1999, the Federal Subsistence Board (Board) adopted Federal regulations for fish in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5 [January 8, 1999]).

Extent of Federal Public Lands/Waters

For purposes of this analysis, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. The Toklat River leaves Denali National Park approximately 50 miles above its confluence with the Kantishna River (**Figure 1**). That portion of the river in the pre-ANILCA section of Denali National Park is closed to all subsistence uses (**Figure 2**).

Closure last reviewed

There has been no previous closure review.



Figure 1. Toklat River from headwaters to confluence with the Kantishna River. Federal waters occur within Denali National Park (BLM 2020).

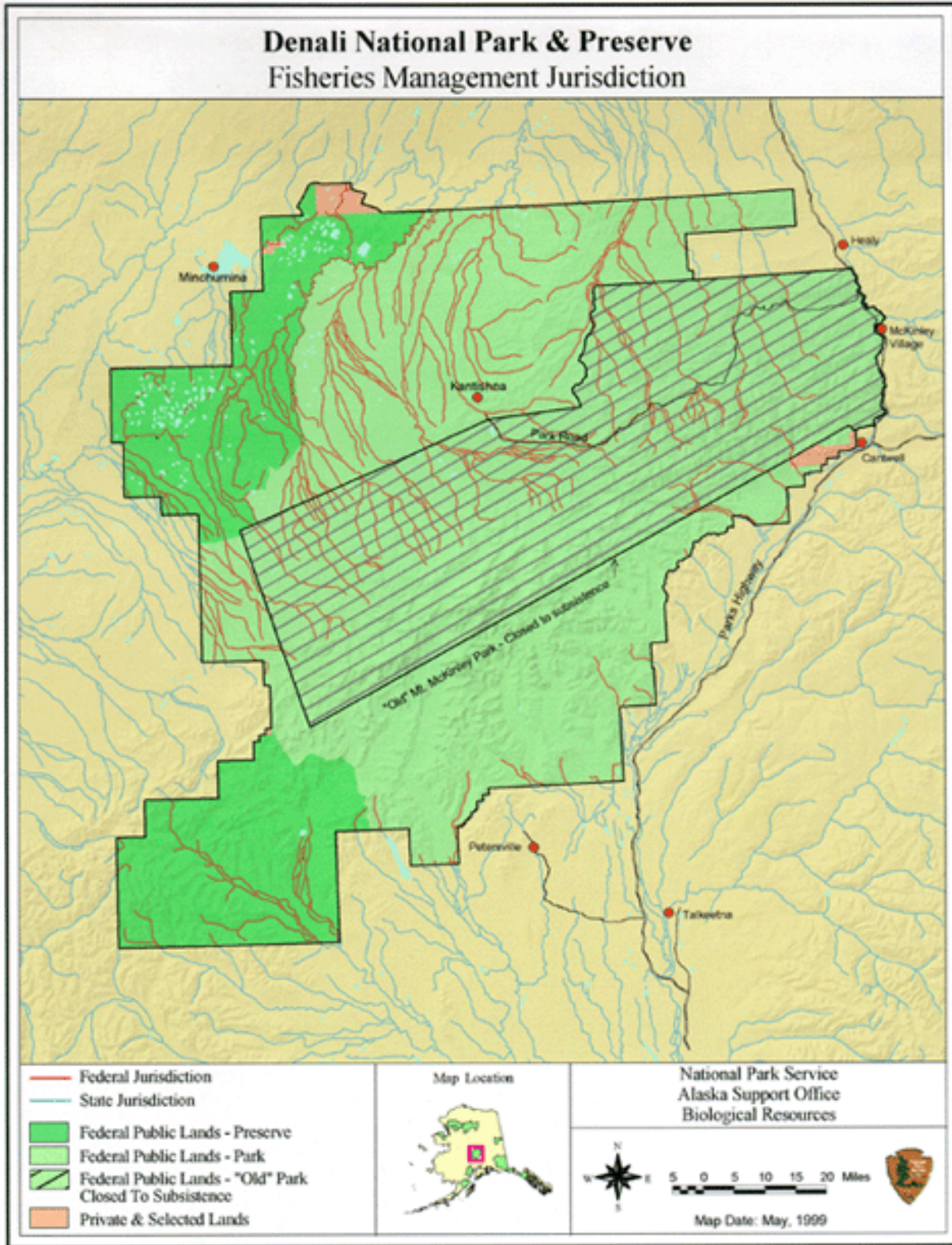


Figure 2: Map showing section of Denali National Park closed to subsistence (NPS 2020).

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

Section §815(3) of ANILCA states:

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

The Federal Subsistence Management Program justification for the original closure in Federal regulations was to minimize disruption to the State’s continuing fish and game management, because of the uncertainty over the resumption of State management of subsistence, yet still fulfill the requirements of Title VIII of ANILCA (55 FR 27114, June 29, 1990).

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background

The Toklat River is one of the largest producers of fall Chum Salmon in the Tanana River Drainage. The average escapement from 1997 to 2016 was approximately 15,610, with the estimated escapement ranging between 3,601 to 179,627 fall Chum Salmon between 1974 and 2017 (Bergstrom et al. 1997; Estensen et al. 2018).

During the 1980s, the Toklat River fall Chum Salmon escapement estimates were below the escapement objective of >33,000 for ten years in a row, prompting the Alaska Board of Fisheries to adopt the Toklat River Fall Chum Salmon Rebuilding Management Plan in 1992 (Bergstrom et al. 1997). Increased productivity in the early 2000s led to the removal of Toklat River fall Chum Salmon as a stock of management concern in 2004.

Prior to establishing a biological escapement goal (BEG) of 15,000–33,000 for fall Chum Salmon in the Toklat River, the Alaska Department of Fish and Game used an escapement objective of >33,000. The BEG was established in 2001 and eliminated in 2010 (Bue et al. 2011; Estensen et al. 2018). From 2001 to 2006, the Toklat River met the escapement goal in four out of five years, with no data available from 2006 to 2010. Currently, the Toklat River stocks are included as part of the Tanana River drainage estimate. The Tanana River fall Chum Salmon escapement goal is 61,000–136,000, and has been met or exceeded every year since 2001 (Estensen et al. 2018).

According to the Alaska Board of Fisheries Proposal 83, submitted by ADF&G in 2018 (ADF&G 2018), the reason for the initial closure was to protect spawning habitat on the Toklat River near where the RS2477 Kobi-McGrath trail crosses the Toklat River. This is the location where the greatest concentration of spawning fall Chum Salmon occurs within the Toklat River drainage. The location is also centered where the Shushana River enters the Toklat River, which is approximately 17 km downstream of the Denali National Park Boundary.

Chum and Coho salmon have been documented in the Toklat River on Federal public lands of Denali National Park and Preserve that are open to subsistence uses. The majority of the fall Chum Salmon spawn downstream of the Denali National Park and Preserve border (Holder and Fair 2002).

Cultural Knowledge and Traditional Practices

Nikolai and Telida are predominantly Upper Kuskokwim Athabascan communities. Telida's population is estimated to be only two residents, while Nikolai has an estimated population of 91 (ADLWD 2019). Lake Minchumina, traditionally Koyukon Athabascan, has an estimated population of 9 (ADLWD 2019). Almost all Telida's former residents relocated to Nikolai in the 1990s due to closure of the Telida school. According to Williams et al.:

This move led to changes in the areas where most Telida residents harvested fish and wildlife. Significantly, some of their past harvest areas were in or near Denali National Park. Now, the former Telida residents live further from the Park. Some families return to Telida to harvest whitefish, trap and [conduct] other activities. Most former residents of Telida have shifted their subsistence harvest areas closer to Nikolai (2005:8).

Nikolai and Telida residents traditionally harvested Chum Salmon to feed their sled dogs. Between the 1900s and 1970s, such harvest took place primarily by fish wheel. However, as dog teams were replaced by snowmachines, Chum Salmon harvest became less important (Williams et al. 2005). During a study year spanning 2001 and 2002, fish made up 35.9% of Nikolai's subsistence harvest. Chinook Salmon comprised almost 80% of Nikolai's fish harvest, and non-salmon species accounted for 20% of the fish harvest. Coho and Chum salmon made up less than one percent of the total fish harvest (Holen et al. 2006). Lake Minchumina's fish harvest is dominated by non-salmon species in local lake waters.

Cantwell is located in the traditional sphere of the Ahtna and Dena'ina Athabascan; additional Athabascan groups, including Tanana, Tanacross, and Upper Tanana also used this area (Krauss et al. 2011). An estimated 202 people live in Cantwell (ADLWD 2019). Because there are no subsistence fisheries in the immediate vicinity of Cantwell, local harvesting takes place by rod and reel and ice fishing. Approximately 20% of Cantwell households harvested freshwater fish, including trout, Grayling, and Dolly Varden, on streams and lakes within the boundaries of Denali National Park in 2000 (Williams et al. 2005). Chinook and Sockeye salmon are taken outside the community vicinity, primarily on the Copper River (Williams et al. 2005). In subsistence survey interviews, Cantwell residents have emphasized the importance of consistency between State and park regulations, because

“uncertainty over the exact location of the park boundary has caused problems with enforcement” (Simeone 2002:14).

Harvest History

There are no records of Federal subsistence harvest in the Toklat River. Federal and State waters of the Toklat River are open to sport fishing, and State subsistence fishing is also allowed outside of the Park. The Toklat River sport fishing regulations are the same as the general Tanana River sport fishing regulations, except in the area where the Toklat and Shushana rivers meet. This area is closed to sport and State subsistence fishing from August 15 to May 15. The remainder of the drainage is open to sport and State subsistence fishing year around.

Regional Federal subsistence regulations for the Yukon Area would apply if the closure is removed. Fishing for salmon would be allowed, and Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060 [emergency orders]), unless superseded by a Federal special action. Salmon could be taken by gillnet, beach seine, dip net, fish wheel, or rod and reel. Fish other than salmon could be taken under any gear listed in the fishing regulations.

OSM CONCLUSION

- maintain status quo
- modify or eliminate the closure

Justification

The OSM conclusion is to eliminate the closure to subsistence fishing in the Toklat River from August 15 through May 15. Yukon River Fall Chum Salmon have met the drainage wide escapement goal every year since the goal was developed in 2004, and were thought to be within the 300,000–600,000 sustainable escapement goal range again in 2019. Additionally, the Tanana River Escapement Goal has been met annually since 2001. In 2007, the Alaska Board of Fish determined that Yukon River Chum Salmon no longer met the criteria for a yield concern, and in 2010 the Biological Escapement Goal for the Toklat River was eliminated. Furthermore, Federal public waters of the Toklat River occur upstream of the primary spawning aggregations. The majority of harvest on these stocks occurs downstream of the Denali National Park boundary. In addition, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060 [emergency orders]), unless superseded by a Federal special action. Therefore, removing these Federal regulations will align Federal and State regulations. Coupled with poor access and closure to all subsistence fishing in the pre-ANILCA portion of Denali National Park, it is unlikely that Federal subsistence harvest within Federal public waters would have much effect on these stocks.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council Recommendation

Eliminate the closure. The Council discussed the importance of the resource and the importance to open this area back up for harvest. This closure was carried over from State regulations when Federal regulations were established. The Council stated that escapement goals are being met, there are no conservation concerns, and that the closure should be rescinded to provide more subsistence harvest opportunity.

Western Interior Alaska Subsistence Regional Advisory Council Recommendation

Eliminate the closure. The Council is in agreement with the Eastern Interior Alaska Subsistence Regional Advisory Council that this closure should be eliminated. The Council also recognizes that two communities within the Western Interior Region have Customary and Traditional Use in this drainage and may benefit from additional traditional subsistence fishing opportunities in the Toklat River.

Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation

Eliminate the closure. The Council agreed with the OSM preliminary conclusion to eliminate the closure to subsistence fishing on the Toklat River from August 15 through May 15. The Council pointed out that the escapement numbers are fine, and the harvest is relatively small in that area. Eliminating the closure to subsistence fishing on the Toklat River will allow Federally qualified subsistence users to take small amounts of fish in the area to meet food security needs in their region.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

No comments.

FCR21-07 Executive Summary	
General Description	Closure Review FCR21-07 reviews the closure to the harvest of Arctic Grayling in Nome Creek of the Yukon River drainage by Federally qualified subsistence users.
Current Regulation	<p>§ __.27(e)(3)</p> <p>***</p> <p><i>(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.</i></p> <p>***</p> <p><i>(xi) In Beaver Creek downstream from the confluence of Moose Creek, a gillnet with mesh size not to exceed 3-inches stretch-measure may be used from June 15 through September 15. You may subsistence fish for all non-salmon species but may not target salmon during this time period (retention of salmon taken incidentally to non-salmon directed fisheries is allowed). From the mouth of Nome Creek downstream to the confluence of Moose Creek, only rod and reel may be used. From the mouth of Nome Creek downstream to the confluence of O'Brien Creek, the daily harvest and possession limit is 5 grayling; from the mouth of O'Brien Creek downstream to the confluence of Moose Creek, the daily harvest and possession limit is 10 grayling. The Nome Creek drainage of Beaver Creek is closed to subsistence fishing for grayling.</i></p>
OSM Conclusion	Maintain status quo
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	Defer to Eastern Interior Alaska Subsistence Regional Advisory Council.
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	Defer to Eastern Interior Alaska Subsistence Regional Advisory Council.
Seward Peninsula Subsistence Regional Advisory Council Recommendation	Defer to Eastern Interior Alaska Subsistence Regional Advisory Council.

FCR21-07 Executive Summary	
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	Modify the closure by closing the Nome Creek drainage to the harvest of Grayling by all uses and users.
North Slope Subsistence Regional Advisory Council Recommendation	Defer to Eastern Interior Alaska Subsistence Regional Advisory Council.
Interagency Staff Committee Comments	<p>The Interagency Staff Committee (ISC) has concerns about a potential precedent being set if the Board moves to maintain the closure to grayling fishing in Nome Creek by Federally qualified subsistence users (FSQU) as recommended by the Office of Subsistence Management in the FCR21-07 analysis. Doing so would allow for a catch and release sport fishery while not allowing for consumptive use of grayling by FQSU. This would appear to violate the priority consumptive use clause found in ANILCA 802(2).</p> <p>As stated in the analysis for FCR21-07, grayling are very susceptible to overexploitation, and even though the sport fishery currently in place in the area is catch and release only, there is associated mortality (in one study as high as 10% as indicated in the analysis), and any mortality should be considered as take. The ISC believes that the modification proposed by the Eastern Interior Alaska Subsistence Regional Advisory Council, which seeks to close the fishery to all users, is more appropriate if the intent of the current closure to FQSU is to conserve the grayling resource from overexploitation.</p>
ADF&G Comments	Maintain status quo
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW
FCR21-07

Closure Location: Yukon River Drainage, Nome Creek—Grayling

Current Federal Regulation

Yukon-Northern Area

§ __.27(e)(3)

(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

(xi) In Beaver Creek downstream from the confluence of Moose Creek, a gillnet with mesh size not to exceed 3-inches stretch-measure may be used from June 15 through September 15. You may subsistence fish for all non-salmon species but may not target salmon during this time period (retention of salmon taken incidentally to non-salmon directed fisheries is allowed). From the mouth of Nome Creek downstream to the confluence of Moose Creek, only rod and reel may be used. From the mouth of Nome Creek downstream to the confluence of O'Brien Creek, the daily harvest and possession limit is 5 grayling; from the mouth of O'Brien Creek downstream to the confluence of Moose Creek, the daily harvest and possession limit is 10 grayling. The Nome Creek drainage of Beaver Creek is closed to subsistence fishing for grayling.

Closure Dates: Year-round

Current State Regulation

Yukon Area

5 AAC 99.015 Joint Board nonsubsistence area

(4) The Fairbanks Nonsubsistence Area is comprised of the following: within Unit 20(A), as defined by 5 AAC 92.450(20) (A), east of the Wood River drainage and south of the

Rex Trail but including the upper Wood River drainage south of its confluence with Chicken Creek; within Unit 20(B), as defined by 5 AAC 92.450(20)(B), the North Star Borough and that portion of the Washington Creek drainage east of the Elliot Highway; within Unit 20(D) as defined by 5 AAC 92.450(20)(D), west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volkmar drainage, including the Goodpaster River drainage; and within Unit 25(C), as defined by 5 AAC 92.450(25)(C), the Preacher and Beaver Creek drainages.

5 AAC 99.016. Activities permitted in a nonsubsistence area

(a) A nonsubsistence area is an area or community where dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life of the area of community. In a nonsubsistence area, the following activities will be permitted if so provided by the appropriate board by regulation:

(2) personal use, sport, guided sport, commercial fishing, and other fishing authorized by permit.

(b) Subsistence hunting and subsistence fishing regulations will not be adopted by a board for a nonsubsistence area and the subsistence priority does not apply in a nonsubsistence area.

Regulatory Year Initiated: 1992

Customary and Traditional Use Determination

Residents of the Yukon-Northern Area have a customary and traditional use determination for freshwater species other than salmon in the Yukon River drainage.

Regulatory History

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

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

Extent of Federal Public Lands/Waters

For purposes of this analysis, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. Nome Creek is a tributary to Beaver Creek, which flows into the Yukon River (**Figure 1**). The entire length of Nome Creek is in the White Mountain Special Recreation Management Area administered by the Bureau of Land Management, about 50 air miles north of Fairbanks, Alaska.

Closure last reviewed

There has been no previous closure review.

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

Section §815(3) of ANILCA states:

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

The Federal Subsistence Management Program justification for the original closure in Federal regulations was to minimize disruption to the State’s continuing fish and game management, because of the uncertainty over the resumption of State management of subsistence, yet still fulfill the requirements of Title VIII of ANILCA (55 FR 27114, June 29, 1990).

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

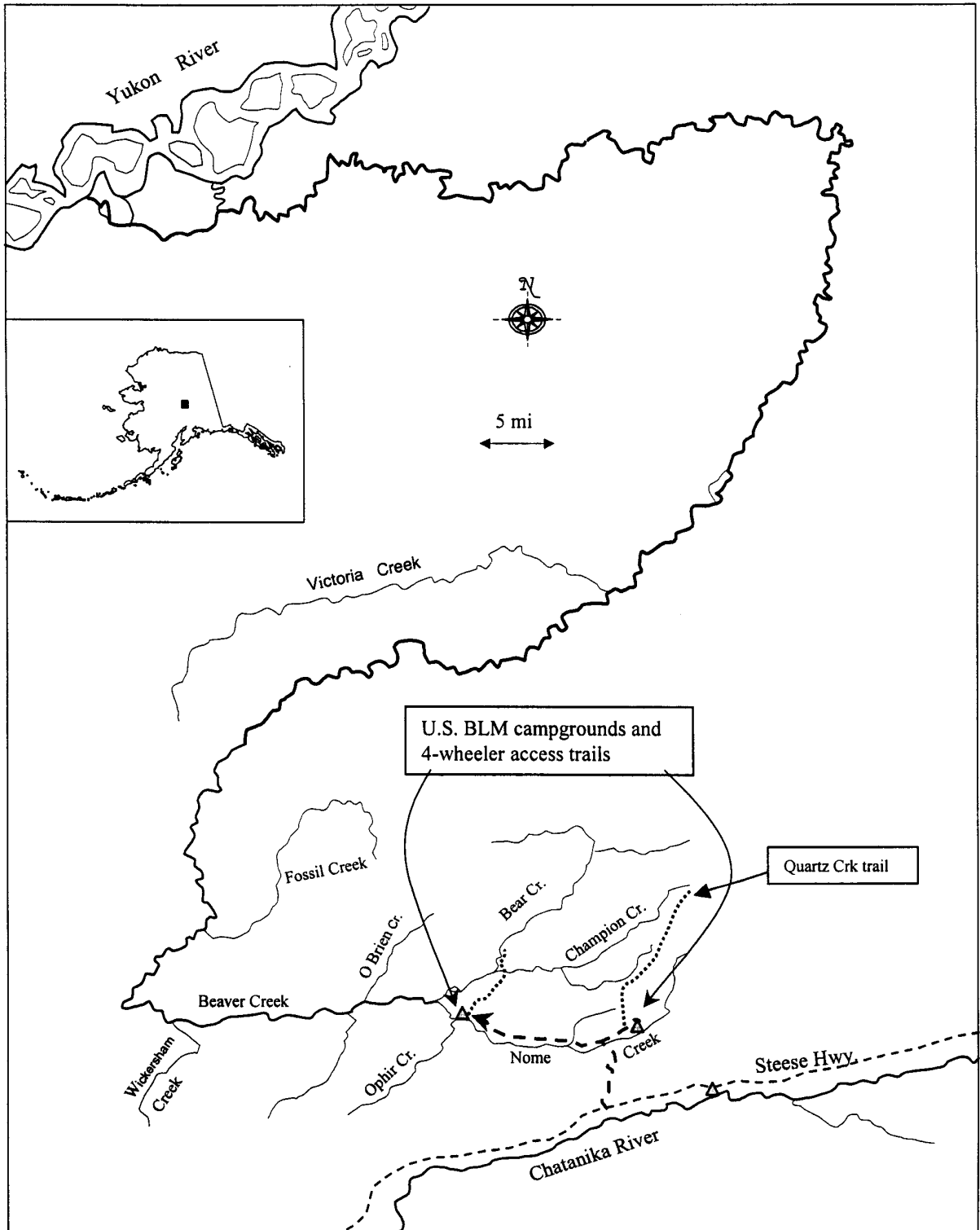


Figure 1. Beaver Creek drainage, including the location of Nome Creek in the White Mountains Special Recreation Area. Map from Fleming and McSweeney 2001.

Biological Background

Arctic Grayling are found throughout most of Alaska except for the Aleutian Islands, Kodiak Island, and Southeast Alaska. Arctic Grayling typically spawn for the first time between four and seven years of age (ADF&G 2020). Adult Arctic Grayling migrate upstream in the spring to spawning locations, which are generally in headwater streams. During spawning, the females will lay between 1,500 and 30,000 eggs, depending on the female's size. The eggs incubate in the gravel for about three weeks before hatching. Once they hatch, the fry move into calm water to feed and grow. Arctic Grayling can live up to 32 years and spawn multiple times. In the fall most Arctic Grayling will migrate downstream to deeper pools to overwinter (ADF&G 2020a). Grayling are voracious feeders and are easily over-exploited (Hubbs & Lagler, 1958; Carl et al. 1992).

A mark-recapture study performed in 2000 in Nome Creek estimated abundance at 419 Grayling (SE=81) > 250 mm fork length. These estimates were from the upper 11 miles of Nome Creek, and estimated a density of 38 fish per mile (Fleming and McSweeney 2001). The sampling occurred during a time when a portion of the spawning population remained in this area, and prior to the time when juveniles had moved into the summer feeding grounds. As such, the population was composed of mainly older fish; 74% were between age 6 and age 8. Estimates were made when spawning fish were in this section, prior to immature fish moving into the area. Abundance in the lower section was estimated to be between 878 and 4,522 Grayling ≥ 180 mm fork length with a 95% CI (Fleming and McSweeney 2001). The wide range in estimates was due to a low recapture rate, likely due to fish migrating upstream between the mark and recapture events.

Sport fishing is allowed year around in Nome Creek, but is limited to unbaited artificial lures or flies with a single hook from April 1 through May 31. All Arctic Grayling must be immediately released (ADF&G 2020b). Mortality can occur during catch and release fishing. Estimated mortality related to catch and release fishing can vary by fishing gear used and by size of Arctic Grayling caught. McKinley (1993) reported a mortality rate of 1% from catch and release techniques on large Arctic Grayling (>305 mm or about 12 inches). Other reports on Arctic Grayling found less than 5% mortality on Grayling less than 305 mm (Clark 1991), to 10% overall mortality on Arctic Grayling (Falk and Gillman 1975).

Harvest History

There is no subsistence harvest to report from Nome Creek as it has been closed to Federal and State subsistence fishing. Sport fishing is allowed, but limited to catch and release for Arctic Grayling. However, the regional Federal subsistence regulations for the Yukon Area would apply if the closure is removed. Therefore, subsistence users would be allowed to harvest Arctic Grayling at any time.

Other Alternatives Considered

One alternative would be to modify the closure by closing the fishery to all users. This would fully protect the Grayling population in Nome Creek. Under this alternative, there would continue to be no Federal subsistence opportunity, but opportunities for sport fishing would be removed. This alternative

would eliminate the current situation, in which fishing is specifically closed to subsistence uses on Federal public waters. This alternative was considered and rejected because it may cause an unnecessary closure beyond which already exists.

A second alternative would be to eliminate the closure to allow the harvest of Grayling by Federally qualified subsistence users in Nome Creek. Considering the small population of fish in this part of the drainage, it would be advisable to modify this opening by matching the Federal regulations that occur directly below the confluence of Nome Creek and Champion Creek, which has a limit of 5 Arctic Grayling. In this alternative, Federally qualified subsistence users would have a subsistence priority over sportfishers in the area, who are limited to catch and release. This alternative was considered and rejected because allowing harvest in this area may lead to localized depletion or overharvest of fish.

Under a third alternative, the closure could be eliminated, but Federal subsistence fishing regulations in this area would mirror state sport fishing regulations. This alternative was considered and rejected because catch-and-release fishing provides no subsistence opportunity for Grayling.

OSM CONCLUSION

- maintain status quo**
- modify or eliminate the closure**

Justification

Grayling is a species that is very susceptible to over-exploitation. Nome Creek is road accessible, allowing for easy access and harvest of fish. Allowing a subsistence harvest on these stocks has the potential for local depletion or overharvest of stocks.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation

Defer to Eastern Interior Alaska Subsistence Regional Advisory Council. This stream is in that region and they would be most familiar with subsistence fishing communities in this area.

Western Interior Alaska Subsistence Regional Advisory Council Recommendation

Defer to Eastern Interior Alaska Subsistence Regional Advisory Council. The Council defers action to the EIRAC due to the fact that Nome Creek lies deep within the Eastern Interior region. The Council believes the communities within this region will have the knowledge and resources needed to make the best decision regarding this current closure.

Seward Peninsula Subsistence Regional Advisory Council Recommendation

Defer to Eastern Interior Alaska Subsistence Regional Advisory Council. The community of Stebbins has a customary and traditional use determination for Yukon Drainage/Nome Creek. The Council voted to defer any recommendation for this proposal to the home region's (EIRAC) recommendation.

Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation

Modify the closure by closing the Nome Creek drainage to the harvest of Grayling by all uses and users.

The modified regulation should read:

Yukon-Northern Area

§ __.27(e)(3)

(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

(xi) In Beaver Creek downstream from the confluence of Moose Creek, a gillnet with mesh size not to exceed 3-inches stretch-measure may be used from June 15 through September 15. You may subsistence fish for all non-salmon species but may not target salmon during this time period (retention of salmon taken incidentally to non-salmon directed fisheries is allowed). From the mouth of Nome Creek downstream to the confluence of Moose Creek, only rod and reel may be used. From the mouth of Nome Creek downstream to the confluence of O'Brien Creek, the daily harvest and possession limit is 5 grayling; from the mouth of O'Brien Creek downstream to the confluence of Moose Creek, the daily harvest and possession limit is 10 grayling. The Nome Creek drainage of Beaver Creek is closed to ~~subsistence~~ fishing for grayling by all users.

The Council said catch-and-release fishing should not be allowed when conservation concerns exist that preclude subsistence uses. The Council thinks current regulations give priority and more liberal opportunities to sport fishers over Federally qualified subsistence users. If the intent of this closure is to protect the grayling population from over exploitation, then the closure should be for all users and uses, including catch-and-release sport fishing. It is well documented that catch-and-release fishing causes mortality, which could affect a small population of grayling. The Council's reason for this modification is a conservation concern for grayling. Any and all causes of grayling mortality should be eliminated. The Council also noted that Nome Creek is not easily accessible or widely used and that there are many other creeks in the area "loaded with grayling," such as Deadwood Creek and Crooked Creek.

North Slope Subsistence Regional Advisory Council Recommendation

Defer to Eastern Interior Alaska Subsistence Regional Advisory Council. This stream is in that region and they would be most familiar with subsistence fishing communities in this area.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Interagency Staff Committee (ISC) has concerns about a potential precedent being set if the Board moves to maintain the closure to grayling fishing in Nome Creek by Federally qualified subsistence users (FSQU) as recommended by the Office of Subsistence Management in the FCR21-07 analysis. Doing so would allow for a catch and release sport fishery while not allowing for consumptive use of grayling by FQSU. This would appear to violate the priority consumptive use clause found in ANILCA 802(2).

As stated in the analysis for FCR21-07, grayling are very susceptible to overexploitation, and even though the sport fishery currently in place in the area is catch and release only, there is associated mortality (in one study as high as 10% as indicated in the analysis), and any mortality should be considered as take. The ISC believes that the modification proposed by the Eastern Interior Alaska Subsistence Regional Advisory Council, which seeks to close the fishery to all users, is more

appropriate if the intent of the current closure to FQSU is to conserve the grayling resource from overexploitation.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Federal Fisheries Closure Review FCR21-07: Current federal regulations close the Nome Creek drainage for subsistence harvest of Arctic grayling to be consistent with State of Alaska (SOA) fishing regulations. Sport fishing for Arctic grayling is allowed but limited to catch-and-release only.

During October 14-15, 2020, the Eastern Interior Regional Advisory Council (EI-RAC) discussed the Federal Fisheries Closure Review (FCR) for Nome Creek Arctic grayling, which is a tributary of Beaver Creek and located within the White Mountains National Recreation Area administered by the Bureau of Land Management (BLM). They then voted to continue the subsistence closure and to amend FCR21-07 to eliminate the catch-and-release sport fishery.

Introduction: Nome Creek is accessible from U.S. Creek road off of the Steese Highway north of Fairbanks, and lies within the White Mountains National Recreation Area and has adjacent campgrounds, a road system, and designated multi-use trails - improvements were made during the 1990's. Because this road system is located near the Fairbanks population center and concerns that subsequent increase in visitor use could be detrimental to the Arctic grayling population, out of an abundance of caution, the sport fishery was designated catch-and-release in 1995.

The 2000 abundance estimates from mark-recapture efforts for the upper and lower portions of Nome Creek identified in FCR21-07 are highly suspect (as identified by the authors) because of low recapture rates, an inability to maintain geographic closure, and sampling too early after spawning before the summer feeding population was fully assembled. However, the assessment work did indicate a population size that may not sustain a directed harvest. Annual estimates of fishing effort, harvest and catch are provided by the Statewide Harvest Survey (SWHS). The utility of SWHS estimates depends on the number of responses received for a given site. Fewer than 12 responses indicate the existence of a sport fishery, but harvest and effort cannot be estimated – it only indicates some effort occurred. During 2015-2019, the average numbers of respondents for Beaver and Nome creeks combined averaged only 7, which indicates a relatively low level of angler effort likely occurred.

Impact on Subsistence Users: We do not anticipate any impact on subsistence users because the Nome Creek Arctic grayling fishery is located within the Fairbanks nonsubsistence area.

5 AAC 99.015. Joint Board nonsubsistence areas.

(a) The following areas are found by the Joint Board of Fisheries and Game to be nonsubsistence use areas:

(4) *The Fairbanks Non-subsistence area is comprised of the following:*

(C) *the Preacher and Beaver Creek drainages.*

5 AAC 99.016. Activities permitted in a nonsubsistence area.

(a) *A nonsubsistence area is an area or community where dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life of the area of community. In a nonsubsistence area, the following activities will be permitted if so provided by the appropriate board by regulation:*

(2) *personal use, sport, guided sport, commercial fishing, and other fishing authorized by permit.*

(b) *subsistence hunting and subsistence fishing regulations will not be adopted by a board for a nonsubsistence area and the subsistence priority does not apply in a nonsubsistence area.*

Impact on Other Users: If the EI-RAC amendment to FCR21-07 is accepted by the FSB then this will have a negative impact on sport fishers who visit the Nome Creek area.

Opportunity Provided by State:

5AAC 73.010. Seasons, bag, possession, and size limits, and methods and means for the Yukon River Area.

(5) *in the Nome Creek drainage of the Beaver Creek, Arctic grayling may be taken only by catch-and-release fishing, and may not be possessed or retained; all Arctic grayling caught must be immediately released.*

(d) *In the Yukon River area, the following special provisions to methods and means apply:*

(2) *from April 1 through May 31, in the Nome Creek drainage of Beaver Creek, only unbaited, single-hook, artificial lures may be used.*

Conservation Issues: Under the current state regulations, there are no conservation issues for Nome Creek. The catch-and-release regulations are very conservative, and any associated hooking morality

is very low. In a controlled experiment, Clark (1991) estimated mortality rates for Arctic grayling and found that they ranged between 0.0 and 1.4% using single hooks, to baited treble hooks – mortality was associated with placement and not gear type. Given the low levels of fishing effort in Nome Creek, even an extreme mortality rate would still result in an effective mortality rate that is sustainable.

The federal fisheries closure review fails to identify what levels of fishing exploitation are sustainable nor provide rationales based on existing knowledge. In the absence of defensible data in situations similar to Nome Creek, the department must rely on inferences based on similar systems where research has been conducted to identify sustainable exploitation rates that are based on conservative assumptions of fishing mortality, Arctic grayling life history, and presumed population sizes.

The dynamics of Arctic grayling life history serve to greatly buffer any exploitation concerns in systems similar to the Nome/beaver Creek complex. Beaver Creek supports a very large and relatively unexploited population that serves as a reservoir for immigration and spawning in Nome Creek resulting in significant exchange. Arctic grayling are colonizers and will quickly fill a vacant niche left by a dominate (i.e. larger sized) fish from within the drainage. Although potentially long lived, most Arctic grayling do not live beyond age-7, affording frequent opportunities for sub-adult fish. Moreover, a mixed stock exists within Nome Creek during the open water period that is composed of spring spawners and summer feeding population – further serving to mitigate any exploitation. As witnessed by ADF&G and BLM researchers, Arctic grayling move into Nome creek and other tributaries to spawn in late May/Early June, some of which will move out, and fish from adjacent waters will immigrate into Nome Creek to occupy summer feeding habitats during mid June – early fall. Given the levels of fishing effort, evidence that the spawning population is protected from fishing mortality, and the catch rates observed by prior researchers, that the low level of hooking mortality is well below a very conservative and sustainable exploitation rate of 10%.

Enforcement Issues: There are no enforcement issues associated with this closure

Recommendation: ADF&G **SUPPORTS** OSM’s preliminary conclusion of maintaining the status quo and **OPPOSES** the proposed amendment to FCR21–07 to close all sport fishing for Arctic grayling in Nome Creek. Since the Joint Boards of Fisheries and Game have identified this area as a nonsubsistence area, this amendment proposed by the EI-RAC is contrary to State statute (16.05.258 (c) and increases the potential for conflict in a high use recreational area. Nome Creek is located within the Fairbanks non-subsistence area and elimination of recreational opportunities within a popular federally designated recreation area would be unnecessarily restrictive. There is no conservation concern because the most conservative fishing regulation (catch-and-release) have already been implemented out of an abundance of caution in 1995; the level of fishing effort and associated hooking mortality is negligible and sustainable; and the level of exchange between Nome and Beaver Creek, which has a large population, serves to even further mitigate any small level of fishing mortality that may occur in Nome Creek. The rationale for the proposed amendment is not based on an identified conservation measure.

FCR21-08 Executive Summary	
General Description	Closure Review FCR21-08 reviews the closure to the harvest of fish by Federally qualified subsistence users in the Unalaska Lake drainage.
Current Regulation	<p>§___.27(e)(6) Aleutian Islands Area</p> <p>***</p> <p><i>(iv) You may not subsistence fish for salmon in the following waters:</i></p> <p><i>(A) The waters of Unalaska Lake, its tributaries and outlet stream;</i></p>
OSM Conclusion	Eliminate the closure and modify the regulations to allow Federally qualified subsistence users to use rod and reel to harvest fish in the Federal waters of the Unalaska Lake drainage.
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	Defer
Interagency Staff Committee Comments	Defer
ADF&G Comments	Neutral
Written Public Comments	None

**FEDERAL FISHERIES CLOSURE REVIEW
FCR21-08**

Closure Location: Unalaska Lake drainage—Salmon

Current Federal Regulation

§___.27(e)(6) Aleutian Islands Area

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

(A) The waters of Unalaska Lake, its tributaries and outlet stream;

Relevant Federal Regulations

§100.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

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

§___.27 Subsistence taking of fish

(b) Methods, means, and general restrictions.

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

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

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

§___.27(e)(6) Aleutian Islands Area

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.

(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.

(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.

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

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.

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

Note: In the Unalaska District, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (**Appendix 1**, see 5 AAC 01.380. Subsistence fishing permits).

Closure Dates: Year-round

Current State Regulations

Subsistence Regulations

Aleutian Islands Area

5 AAC 01.370. Lawful gear and gear specifications

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

(d) In the Unalaska District, a subsistence permit holder fishing with a net must be physically present at the net at all times when the net is being used for fishing.

5 AAC 01.375 Waters closed to subsistence fishing

The following waters are closed to subsistence fishing for salmon:

(1) waters of Unalaska Lake (at the city of Unalaska), its tributaries and outlet stream, and waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53_ 52.64' N. lat., 166_ 32.30' W. long. to a point on Amaknak Island at 53_ 52.82' N. lat., 166_ 32.13' W. long., and north of line from a point south of Agnes Beach at 53_ 52.28' N. lat., 166_ 32.68' W. long. to a point at 53_ 52.35' N. lat., 166_ 32.95' W. long. on Amaknak Island;

5 AAC 01.380. Subsistence fishing permits

(a) Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(b) No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts,

(1)the holder of a subsistence salmon fishing permit may take no more than 25 salmon, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay; in this section, "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53_ E/CS> 52.64' N. lat., 166_ E/CS>

32.30' W. long., to a point on the Unalaska Bay shore at 53° E/CS> 52.68' N. lat.,
166° E/CS> 30.91' W. long;

(2) a permit holder may obtain an additional permit from the department to harvest more salmon other than sockeye salmon from Front Beach in Unalaska Bay.

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

Sport Regulations

Alaska Peninsula and Aleutian Islands Area

5 AAC 65.022. Special provisions for bag, possession, and annual limits, and methods and means in the Alaska Peninsula and Aleutian Islands Area

(e) In the salt waters and all freshwater drainages of Unalaska Bay, the bag and possession limit for salmon, other than king salmon, is five fish per day, five fish in possession, of which no more than two fish may be coho salmon and two fish may be sockeye salmon.

5 AAC 65.051. Waters closed to sport fishing in the Alaska Peninsula and Aleutian Islands Area

(a) the Illiuliuk River drainage, including Illiuliuk Creek (also known as Town or Unalaska Creek), Illiuliuk [Unalaska] Lake, and all waters flowing into Illiuliuk Lake,

(i) is closed to sport fishing for sockeye salmon;

(ii) upstream from ADF&G regulatory markers located at the Church Hole [in Unalaska Creek], is closed to sport fishing for salmon;

Regulatory Year Initiated: 2001

Customary and Traditional Use Determination

Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for all fish in the Aleutian Islands Area.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters comprise Unalaska Lake (also known as Iliukiuk Lake) and its tributaries and outlet streams, which are within and adjacent to the exterior boundaries of the Alaska Maritime National Wildlife Refuge (**Figure 1** and **Figure 2**).



Figure 1. Map showing Unalaska Lake. Image courtesy of the FWS Land Mapper for the Alaska Region, developed by the USFWS, Alaska Region, Division of Realty.

Regulatory History

In 1991, the Federal Subsistence Management Program adopted final temporary regulations for the harvest of fish for subsistence uses in non-navigable waters within and adjacent to the exterior boundaries of Federal public lands (56 Fed. Reg. 123, 29352 [June 26, 1991]). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations, “These temporary regulations attempt throughout to limit change from the State regulations to that necessary to fulfill the Secretaries’ responsibilities pursuant to title VIII” (56 Fed. Reg. 123, 29311 [June 26, 1991]).

In 1992, the Federal Subsistence Board (Board) adopted final regulations for fish management and rescinded the closure (57 Fed. Reg. 103, 22564 [May 28, 1992]). In 1997, the closure was in the proposed rule for the management of fish in navigable waters, in addition to non-navigable waters. The justification was that “The proposed wording of these sections is based on the existing State subsistence regulations with some exceptions” (62 Fed. Reg. 242, 66220 [December 17, 1997]).

In 1999, the Board adopted Federal regulations for fish in navigable waters, in addition to non-navigable waters, but this closure was not included (64 Fed. Reg. 5, 1307 [January 8, 1999]). In 2001, the closure under review in this analysis was added to Federal regulations (66 Fed. Reg. 30, 10154 [February 13, 2001]).



Figure 2. Aerial image of Unalaska Lake. Photo courtesy of Andy Dietrick, Aleutian Aerial LLC.

Closure Last Reviewed

There have been no previous reviews of this closure.

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

Section §815(3) of ANILCA states:

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

In 1997, the closure was in the proposed rule for the management of fish in navigable waters, in addition to non-navigable waters. The justification was that “The proposed wording of these sections is based on the existing State subsistence regulations with some exceptions” (62 Fed. Reg. 242, 66220 [December 17, 1997]). It was adopted as final in 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background

This system has been identified to contain Coho, Pink, and Sockeye Salmon in this system, along with Dolly Varden (Johnson and Blossom 2018). In 2018 and 2019, Aerial surveys were conducted to enumerate salmon in this system using drones (Lawson 2020). The surveys, conducted by Aleutian Aerial LLC and funded by the Unalaska Native Fisherman’s Association, the Ounalashka Corporation, and the City of Unalaska, were commissioned out of concern for the lack of escapement estimates for Sockeye Salmon on the road system of Unalaska Island. The footage was provided to the Alaska Department of Fish and Game (ADF&G), who reviewed the footage and estimated the runs. The ADF&G also provided feedback for continued improvement of the aerial video monitoring methods, with the hopes of continuing these surveys. Minimum escapements (**Table 1**) indicate that this is currently a very small run for each salmon species. Additionally, substantial erosion and siltation of this system has been observed as identified by the brown colored shallow water at head of Unalaska Lake in **Figure 2**. Heavy siltation of this lake over decades may have eliminated shore spawning habitat for lake shore spawning Sockeye Salmon.

Table 1. Minimum salmon escapements at Unalaska Lake in 2018 and 2019, based on aerial drone surveys. Surveys did not include all habitat used by Pink Salmon, and were not conducted during the peak of Coho Salmon abundance (Lawson 2020).

Location	Year	Sockeye Salmon	Pink Salmon	Coho Salmon
Unalaska Lake	2018	583	605	21
Unalaska Lake	2019	350	25	0

Cultural Knowledge and Traditional Practices

The city of Unalaska is situated on Unalaska Island and is the largest city in the Aleutian Islands. The Port of Dutch Harbor is situated on adjacent Amaknak Island and is connected to Unalaska by a strip of road bridging the South Channel. This port and city supports one of the largest commercial fisheries in the nation. According to the 2010 United States Census, Unalaska had a population of 4,376 people. Considering the industrial scale of the fisheries operations there, many of the “residents” as recorded in the 2010 census may actually be seasonal workers that do not claim permanent Alaskan residency. As a context for assessing the actual number of permanent residents in Unalaska, in “Subsistence Fisheries Harvest Assessment and Traditional Ecological Knowledge, Lower Alaska Peninsula and Aleutian Islands,” Davis lists the population of Unalaska in 2000 as 2,091 people, less than half that of the 2000 census (4,283) (Davis 2005). Researchers specifically excluded any group quarter residents.

The most recent comprehensive subsistence surveys conducted by the ADF&G, Division of Subsistence, were completed for the 1993 study year (Scarborough and Fall 1997). During the study year permanent residents of Unalaska harvested approximately 195 lb of subsistence foods per person, of which approximately 28%, or 54 lb per person, was salmon. Harvest methods for the salmon caught

that year were “subsistence methods” (primarily nets, 62% of the salmon harvest), rod and reel (34% of the salmon harvest), and removal from commercial harvests (4% of the salmon harvest) (Scarborough and Fall 1997).

In 2013, Reedy conducted a partial house-to-house salmon harvest survey in Unalaska and made these observations:

Many people go beach seining at Front Beach in Unalaska Bay for salmon in the summer months. The culture camp seines for pinks as well. Pink salmon are the most abundant on the island but not the most desired fish. Their eggs are harvested and can be stored frozen. Sockeye is the most desired fish but abundance is down and this is blamed by locals on road construction, culverts, sediment runoff, and siltation ruining spawning beds. . . . A high school class runs the local coho salmon hatchery in the Iliuliuk River led by the science teacher, and the students are stewards of the river and its fish. Locals make lox with the salmon. Silvers are often smoked. Many keep sockeye heads for soup (Reedy 2016: 25).

Harvest History

Sport fishing under State regulations is the only harvest for salmon currently allowed in the Unalaska Lake system, also known as the Iliuliuk drainage. Sport fishing for salmon (other than Sockeye Salmon) is allowed only downstream of the ADF&G regulatory marker located at the Church Hole, which is located at the top end of the intertidal zone by the Russian Orthodox Church. This limited fishing area is approximately 200 yards long. The entire system is closed year-round to fishing for Sockeye Salmon, and the standard salmon sport regulations for the area apply for the other salmon species present, allowing 5 per day and 5 in possession, of which 2 may be Coho Salmon. Dolly Varden regulations allow 10 per day and 10 in possession. Reported harvest from these areas is low enough that they are lumped into a general Alaska Peninsula/Aleutian lakes category that covers a broad swath of the region (Alaska Sport Fishing Survey database, May 28, 2020).

A marine waters State sport fishery, primarily with snagging gear, takes place in in close vicinity to the mouth of the Iliuliuk drainage in Margaret’s Bay. The primary fish species targeted in this snag fishery are Sockeye Salmon. Although other Sockeye Salmon systems exist in Unalaska Bay, it is likely much of the harvest from this snag fishery is likely returning to the Iliuliuk drainage. Additionally, a State subsistence fishery for fish returning to this system does exist in the marine waters near the mouth of the drainage, at Front Beach and beyond the channel bridge connecting to Little South America. Both subsistence fisheries are conducted in the two access directions salmon have to pass to get into the Iliuliuk drainage. The marine waters harvest is primarily Sockeye Salmon, but some Coho Salmon are also caught. During even years, Pink Salmon dominate the escapement into this system and are easily harvested both in the Sport and marine based Subsistence fisheries. Subsistence harvest in this area has contributed only a small percentage of overall subsistence harvest in the Unalaska Island area in the past few years, as most harvest has taken place in Reese Bay near McLees Lake (Fox et al. 2018, 2019).

There is currently no legal subsistence harvest in this freshwater system under Federal or State regulations, and there is no harvest history to report. However, the regional Federal subsistence regulations for the Unalaska District of the Aleutian Islands Area would apply if the closure is eliminated. Fishing for salmon would be allowed daily between 6 a.m. and 9 p.m., and would require a State subsistence permit (since there are no Federal subsistence fishing permits for this area) with reporting due annually by October 31. Salmon could be taken by seine or gillnet, and gillnets would have to be physically supervised at all times when in use. In the Unalaska District, salmon harvest is limited to 25 salmon plus an additional 25 salmon for each member of a household listed on a permit.

Other Alternative(s) Considered

Alternatives considered upon review of a closure include maintaining the status quo, eliminating the closure if no longer necessary, modifying the timing of the closure, or eliminating the closure and restricting legal gear and harvest limits. Salmon returns into the Iliuliuk drainage are small and remain a conservation concern, however the system does support some sport opportunity. Maintaining the status quo, which would continue to allow sport fishing while prohibiting subsistence, does not provide for a subsistence priority; therefore this alternative was rejected.

Eliminating the closure was also rejected due to the vulnerable status of the salmon population. One alternative considered would close the waters of Unalaska Lake, its tributaries and outlet stream, to all uses, restricting both subsistence fishing and sport opportunity within the drainage. This modification was rejected because the system currently supports a limited harvest under sport regulation, and may possibly support a similar opportunity under limited subsistence regulations, providing a subsistence opportunity for Federally qualified subsistence users.

OSM CONCLUSION

- maintain status quo**
- modify or eliminate the closure**

The OSM Conclusion is to modify the closure to allow limited opportunity for subsistence harvest in Unalaska Lake, its tributaries and outlet stream. Under this modification you may not take Sockeye Salmon, and no more than 5 salmon per day and 5 salmon in possession with rod and reel, of which only 2 may be Coho salmon.

The modification should read:

§ __.27(e)(6) Aleutian Islands Area

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.

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

~~(A) The waters of Unalaska Lake, its tributaries and outlet stream;~~

(v) You may take salmon only by seine and gillnet, or with gear specified on a subsistence fishing permit **except in Unalaska Lake, its tributaries and outlet stream, you may not use a seine or a gillnet.**

(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.

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

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit; **and in Unalaska Lake, its tributaries and outlet stream you may not take Sockeye Salmon, and take no more than 5 salmon per day and 5 salmon in possession with rod and reel, of which only 2 may be Coho Salmon.** You may obtain an additional permit.

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

Justification

Currently this drainage is closed to the harvest of salmon by Federally qualified subsistence users and remains open to other uses. There is likely a small amount of harvest under restricted State sport fishing at the mouth and across the lagoon of the system and through State subsistence in the marine environment. This system should be open to a limited subsistence harvest. If this closure is modified to open to subsistence harvest of salmon, OSM recommends the harvest be restricted to rod and reel and low harvest and possession limits in order to protect healthy populations of salmon in the system.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Kodiak/Aleutian Subsistence Regional Advisory Council

Defer FCR21-08. This closure was adopted from the Alaska Department of Fish and Game regulations 20 years ago. This is the initial review of this closure by Kodiak/Aleutians Subsistence Regional Advisory Council. The Council was not able to talk with the local Tribes and Advisory Committees regarding this closure and analysis prior to the Council meeting date.

The Council deferred seven Fishery Closure Reviews to the March 9-10, 2021 public meeting. In a unanimous vote, the Council stated the Fishery Closure Reviews should have public input that directly affects the communities and the Council will consider those comments at its winter meeting. The Council will address the Closure Reviews at the winter 2021 Kodiak/Aleutians Subsistence Advisory Council meeting to develop recommendations to the Board.

The Council and OSM staff are contacting the State of Alaska Local Advisory Committees and Tribes regarding the seven closure reviews for public input for the Council to consider.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Kodiak/ Aleutians Subsistence Regional Advisory Council (Council) deferred action on seven fishery closure reviews specific to their region. The Council deferred the closures because they wanted to collect additional information from local communities that could be impacted by actions taken on these closures. The Council was not confident they had sufficient input from the affected communities to make recommendations and wanted to ensure the Council made the appropriate recommendations as many closures focused on small and sensitive fisheries that have never been open to subsistence harvest. The Council is currently working with the Office of Subsistence Management (OSM) to make contacts with specific communities to gather additional feedback and plans to provide final recommendations on the deferred closure reviews during their winter Council meeting (March 2021).

The ISC believes the Federal Subsistence Board (Board) should consider deferring action on these closure reviews until the next fishery regulatory cycle. The seven closures that are up for review have been in place for 20 years and thus deferring action to the next fishery regulatory cycle would likely not have a noticeable impact to subsistence communities. Furthermore, if the Board took action on these closures during the summer 2021 Board session, any new regulations would not be effective until published in the Federal Register during the next fishery regulatory cycle.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Neutral.

SELECTED SUBSISTENCE REGULATIONS

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Unalaska Area.

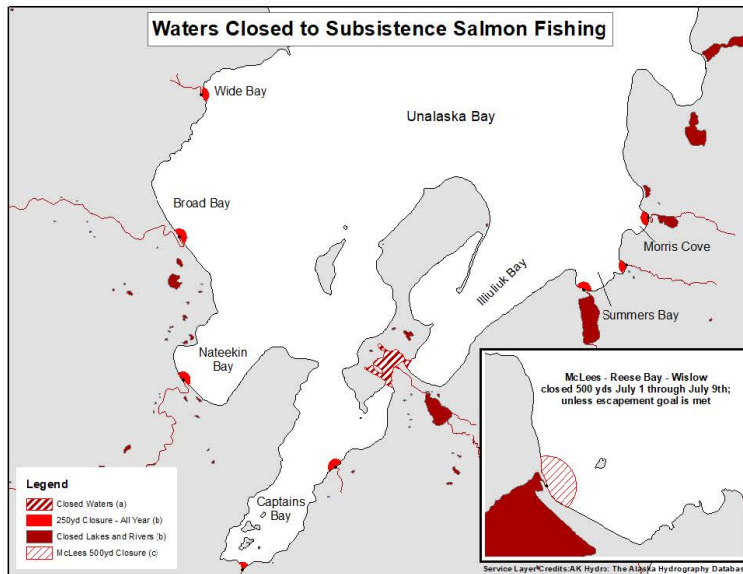
5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN: 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay. "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53° 52.64' N. lat., 166° 32.30' W. long., to a point on the Unalaska Bay shore at 53° 52.68' N. lat., 166° 30.91' W. long. Additional household permits are available by request from the local ADF&G representative.

5 AAC 01.375. CLOSED WATERS: (see map below)

- a. The waters of Unalaska Lake (at the city of Unalaska), its tributaries and the outlet stream, and all waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long. and north of a line from a point south of Agnes Beach at 53° 52.28' N. lat., 166° 32.68' W. long. to a point at 53° 52.35' N. lat., 166° 32.95' W. long. on Amaknak Island.
- b. **Within Unalaska Bay** (south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point): **all waters are closed to subsistence salmon fishing within the waters of all streams, lakes, and within 250 yards of any anadromous stream outlet** (except for the vicinity of Unalaska Lake as described above in (a) above).
- c. At Reese Bay (Wislow), no subsistence salmon fishing is allowed in the waters of McLees Lake and its drainages or tributaries. **No subsistence salmon fishing is allowed within 500 yards of the terminus of the McLees Lake outlet during July 1 through July 9.**

ADDITIONAL RESTRICTIONS:

- 1. **This permit must be carried by permit holder while harvesting and transporting subsistence caught salmon and must be readily available for inspection.**
- 2. **The number of subsistence salmon, the species, the location of the catch, and the date of catch must be recorded on this permit immediately after harvest.** Maintain a consistent tally of your catch on the permit. This includes fish that are given away or shared.
- 3. **Subsistence fisherman must be in attendance of their net at all times that it is fished.**
- 4. In the Unalaska District, subsistence net may be fished **ONLY from 6:00 AM through 9:00 PM daily.**
- 5. Only household members listed on the permit may assist in the harvest of subsistence salmon.
- 6. Salmon may be taken by seine or gillnet. Gillnets are restricted to 50 fathoms total length. Each gillnet must have a buoy on each end. The **name and address** of the operator must be plainly and legibly inscribed on each buoy.
- 7. From June 1 through September 15, a salmon seine vessel may not be used to take salmon for subsistence use 24 hours before or 12 hours after an open commercial fishing period within an area open to commercial salmon fishing.
- 8. **Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.**
- 9. **No more than half the width of a stream or its mouth may be obstructed by a net.** This restriction includes blocking the stream mouth while "roundhauling."



For questions contact Fish and Game office: Dutch Harbor (907) 581-1239; Kodiak (907) 486-1882.

FCR21-09 Executive Summary	
General Description	Closure Review FCR21-09 reviews the closure to the harvest of salmon by Federally qualified subsistence users in the Summers and Morris Lakes drainages.
Current Regulation	<p>§___.27(e)(6) Aleutian Islands Area</p> <p>***</p> <p><i>(iv) You may not subsistence fish for salmon in the following waters:</i></p> <p style="text-align: center;">***</p> <p><i>(B) The waters of Summers and Morris Lakes and their tributaries and outlet streams;</i></p>
OSM Conclusion	Eliminate the closure and modify the regulations to allow Federally qualified subsistence users to harvest salmon with means other than seine and gillnet in the Federal waters of Summers and Morris Lake drainages.
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	Defer
Interagency Staff Committee Comments	Defer
ADF&G Comments	Neutral
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW
FCR21-09

Closure Location: Summers and Morris lakes—Salmon

Current Federal Regulation

§___.27(e)(6) Aleutian Islands Area

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

(B) The waters of Summers and Morris Lakes and their tributaries and outlet streams;

Relevant Federal Regulations

§100.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

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

§___.27 Subsistence Taking of Fish

(b) Methods, means, and general restrictions.

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

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

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

§___.27(e)(6) Aleutian Islands Area

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.

(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.

(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.

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

Note: In the Unalaska District, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (5 AAC 01.380. Subsistence fishing permits; see permit in **Appendix 1**)

Closure Dates: Year-round

Current State Regulations

Subsistence Regulations

Alaska Peninsula Aleutian Islands Area

5 AAC 01.370. Lawful gear and gear specifications

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

(d) In the Unalaska District, a subsistence permit holder fishing with a net must be physically present at the net at all times when the net is being used for fishing.

5 AAC 01.375 Waters closed to subsistence fishing

The following waters are closed to subsistence fishing for salmon:

(3) waters of Summers and Morris Lakes and their tributaries and outlet streams;

5 AAC 01.380. Subsistence fishing permits

(a) Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(b) No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit. . .

(2) a permit holder may obtain an additional permit from the department to harvest more salmon other than sockeye salmon from Front Beach in Unalaska Bay.

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

Sport Regulations

Alaska Peninsula Aleutian Islands Area

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

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

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

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

5 AAC 65.051. Waters closed to sport fishing in the Alaska Peninsula and Aleutian Islands Area

(3) Humpy Cove and Summer Bay Lake outlet creeks;

(B) the Summer Bay Lake drainage and salt waters within a 250-yard radius of the Summer Bay Creek outlet are closed to sport fishing from August 16 through December 31;

Regulatory Year Initiated: 2001

Customary and Traditional Use Determination

Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for all fish in the Aleutian Islands Area.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters comprise Summers and Morris Lakes and their tributaries and outlet streams, which are within and adjacent to the exterior boundaries of the Alaska Maritime National Wildlife Refuge (**Figure 1** and **Figure 2**).



Figure 1. Map of Morris Lake (top right, in red) and Summers Lake (larger lake lower left) on Unalaska Island. Image courtesy of the FWS Land Mapper for the Alaska Region, developed by the USFWS, Alaska Region, Division of Realty.



Figure 2. Aerial images of Summer (left) and Morris (right) lakes. Both systems are accessible through the road system. Photos courtesy of Andy Dietrick, Aleutian Aerial LLC.

Regulatory History

In 1999, the Federal Subsistence Board (Board) adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5, 1307 [January 8, 1999]). However, this closure was not included until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

Closure Last Reviewed

There have been no previous reviews of this closure.

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

Section §815(3) of ANILCA states:

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

In 1999, the Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries and shellfish regulations (64 Fed. Reg. 5, 1284 [January 8, 1999]). However, this closure was not included until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background

Summer Lake and its primary tributary have been surveyed and found to contain Coho, Pink, and Sockeye salmon (Johnson and Blossom 2018). Morris Lake and its primary tributary have been identified as containing Coho and Sockeye Salmon (Johnson and Blossom 2018). In 2018 and 2019, aerial surveys were conducted to enumerate salmon in these systems using drones (Lawson 2020). The surveys, conducted by Aleutian Aerial LLC and funded by the Unalaska Native Fisherman's Association, the Ounalashka Corporation, and the City of Unalaska, were commissioned out of concern for the lack of escapement estimates for Sockeye Salmon on the road system of Unalaska Island. The footage was provided to the Alaska Department of Fish and Game (Department), who reviewed the footage and enumerated the runs. The Department also provided feedback for continued improvement of the aerial video monitoring methods, with the hopes of continuing these surveys. Minimum escapements (**Table 1**) indicate that while these lakes have relatively small runs, there are considerably more salmon returning to Summer Lake as compared to Morris Lake.

Table 1. Minimum salmon escapements based on aerial drone surveys. Surveys did not include all habitat used by Pink Salmon, and were not conducted during the peak of Coho Salmon abundance (Lawson 2020).

Location	Year	Sockeye Salmon	Pink Salmon	Coho Salmon
Summer (Bay) Lake	2018	3,622	4,105	201
Summer (Bay) Lake	2019	2,575	4,090	415
Morris (Cove) Lake	2018	315	7	0
Morris (Cove) Lake	2019	376	0	0

Cultural Knowledge and Traditional Practices

The city of Unalaska is situated on Unalaska Island and is the largest city in the Aleutian Islands. The Port of Dutch Harbor is situated on adjacent Amaknak Island and is connected to Unalaska by a strip of road bridging the South Channel. This port and city supports one of the largest commercial fisheries in the nation. According to the 2010 United States Census, Unalaska had a population of 4,376 people. Considering the industrial scale of the fisheries operations there, many of the “residents” as recorded in the 2010 census may actually be seasonal workers that do not claim permanent Alaskan residency. As a context for assessing the actual number of permanent residents in Unalaska, in “Subsistence Fisheries Harvest Assessment and Traditional Ecological Knowledge, Lower Alaska Peninsula and Aleutian Islands,” Davis lists the population of Unalaska in 2000 as 2,091 people, less than half that of the 2000 census (4,283) (Davis 2005). Researchers specifically excluded any group quarter residents.

The most recent comprehensive subsistence surveys conducted by the ADF&G, Division of Subsistence, were completed for the 1993 study year (Scarborough and Fall 1997). During the study year permanent residents of Unalaska harvested approximately 195 lb of subsistence foods per person, of which approximately 28%, or 54 lb per person, was salmon. Harvest methods for the salmon caught that year were “subsistence methods” (primarily nets, 62% of the salmon harvest), rod and reel (34% of the salmon harvest), and removal from commercial harvests (4% of the salmon harvest) (Scarborough and Fall 1997).

In 2013, Reedy conducted a partial house-to-house salmon harvest survey in Unalaska and made these observations:

Many people go beach seining at Front Beach in Unalaska Bay for salmon in the summer months. The culture camp seines for pinks as well. Pink salmon are the most abundant on the island but not the most desired fish. Their eggs are harvested and can be stored frozen. Sockeye is the most desired fish but abundance is down and this is blamed by locals on road construction, culverts, sediment runoff, and siltation ruining spawning beds. . . . A high school class runs the local coho salmon hatchery in the Iliuliuk River led by the science teacher, and the students are stewards of the river and its fish. Locals make

lox with the salmon. Silvers are often smoked. Many keep sockeye heads for soup (Reedy 2016: 25).

Harvest History

There is no legal Federal or State subsistence harvest in either of these lakes or their tributaries. However, both are open to sport fishing. Summer Lake, also referred to as Summer Bay Lake, is open to fishing January 1 – August 15, but Summer Bay Creek (leading into the lake) is closed to sport fishing year-round. Morris Lake and its drainage are open to sport harvest year-round. Sport harvest limits for open areas of both locations are the same for salmon. Coho, Chum, Sockeye, and Pink salmon are limited to a combined total of 5 per day and 5 in possession, only 2 of which may be Coho Salmon and only 2 of which may be Sockeye Salmon. Rainbow Trout/Steelhead and Dolly Varden have harvest limits of 2 per day, 2 in possession and 10 per day, 10 in possession, respectively. Reported harvest from these areas is low enough that they are lumped into a general Alaska Peninsula/Aleutian lakes category that covers a broad swath of the region (Alaska Sport Fishing Survey database, May 28, 2020). According to the Sport Fish Area Management Biologist, most salmon harvest in the vicinity of these two drainages occurs in the marine environment (Polum 2020, pers. comm.).

There is no subsistence harvest to report in either system as both are closed to subsistence fishing. However, the regional Federal subsistence regulations for the Unalaska District of the Aleutian Islands Area would apply if the closure is eliminated with no modification. Fishing for salmon would be allowed daily between 6 a.m. and 9 p.m., and would require a State subsistence permit with reporting due annually by October 31. Salmon could be taken by seine or gillnet, and gillnets would have to be physically supervised at all times when in use. The harvest of trout and char would also require a permit and fall under those terms. Fish other than salmon could be taken under any gear listed in the fishing regulations or with gear specified on the permit. In the Unalaska District, salmon harvest is limited to 25 salmon plus an additional 25 salmon for each member of a household listed on a permit.

Other Alternative(s) Considered

Alternatives considered upon review of a closure include maintaining the status quo, eliminating the closure if no longer necessary, modifying the timing of the closure, or eliminating the closure and restricting legal gear and harvest limits. Salmon returns into Summers and Morris lakes are small and remain a conservation concern, however the system does support some sport opportunity. Maintaining the status quo, which would continue to allow sport fishing while prohibiting subsistence, does not provide for a subsistence priority; therefore this alternative was rejected.

Eliminating the closure was also rejected due to the vulnerable status of the salmon population. One modification considered would close the waters of Summers and Morris lakes, their tributaries and outlet streams, to all uses, restricting both subsistence fishing and sport opportunity within the drainages. This modification was rejected because the system currently supports a limited harvest under sport regulation, and may possibly support a similar opportunity under limited subsistence regulations, providing a subsistence opportunity for Federally qualified subsistence users.

Another modification considered was to close the waters of Morris Lake, its tributaries and outlet stream, to all uses, restricting both subsistence fishing and sport opportunity within the drainage, and eliminating the closure to subsistence fishing in the waters of Summers Lake, its tributaries and outlet stream. This modification was rejected because both systems currently support a limited harvest under sport regulation, and may possibly support a similar opportunity under limited subsistence regulations, providing a subsistence for Federally qualified subsistence users.

OSM CONCLUSION

- maintain status quo
- modify or eliminate the closure

The OSM Conclusion is to modify the closure to allow limited opportunity for subsistence harvest in Summers and Morris Lakes, and their tributaries and outlet streams. Under this modification you may not use a seine or a gill net and take no more than 20 salmon.

The modification should read:

§___.27(e)(6) Aleutian Islands Area

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

~~(B) The waters of Summers and Morris Lakes and their tributaries and outlet streams;~~

§100.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

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

§___.27 Subsistence Taking of Fish

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

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

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

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

§___.27(e)(6) Aleutian Islands Area

(ii) *In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.*

(v) *You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit. **In the waters of Summers and Morris Lakes and their tributaries and outlet streams, you may not use a seine or a gillnet.***

(vi) *In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.*

(viii) *You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.*

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(ix) *You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit; **and in the waters of Summers and***

Morris Lakes and their tributaries and outlet streams, you may take not more than 20 salmon.

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

Justification

Currently these drainages are closed to the harvest of salmon by Federally qualified subsistence users and remain open to other uses. This system should be open to limited subsistence harvest. If this closure is modified to open to subsistence harvest of salmon, OSM recommends the harvest be restricted to rod and reel and low harvest and possession limits in order to protect healthy populations of salmon in the system.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Kodiak/Aleutian Subsistence Regional Advisory Council

Defer FCR21-09. This closure was adopted from the Alaska Department of Fish and Game regulations 20 years ago. This is the initial review of this closure by Kodiak/Aleutians Subsistence Regional Advisory Council. The Council was not able to talk with the local Tribes and Advisory Committees regarding this closure and analysis prior to the Council meeting date.

The Council deferred seven Fishery Closure Reviews to the March 9-10, 2021 public meeting. In a unanimous vote, the Council stated the Fishery Closure Reviews should have public input that directly affects the communities and the Council will consider those comments at its winter meeting. The Council will address the Closure Reviews at the winter 2021 Kodiak/Aleutians Subsistence Advisory Council meeting to develop recommendations to the Board.

The Council and OSM staff are contacting the State of Alaska Local Advisory Committees and Tribes regarding the seven closure reviews for public input for the Council to consider.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Kodiak/ Aleutians Subsistence Regional Advisory Council (Council) deferred action on seven fishery closure reviews specific to their region. The Council deferred the closures because they wanted to collect additional information from local communities that could be impacted by actions taken on these closures. The Council was not confident they had sufficient input from the affected communities to make recommendations and wanted to ensure the Council made the appropriate recommendations as many closures focused on small and sensitive fisheries that have never been open to subsistence harvest. The Council is currently working with the Office of Subsistence Management (OSM) to make contacts with specific communities to gather additional feedback and plans to provide final recommendations on the deferred closure reviews during their winter Council meeting (March 2021).

The ISC believes the Federal Subsistence Board (Board) should consider deferring action on these closure reviews until the next fishery regulatory cycle. The seven closures that are up for review have been in place for 20 years and thus deferring action to the next fishery regulatory cycle would likely not have a noticeable impact to subsistence communities. Furthermore, if the Board took action on these closures during the summer 2021 Board session, any new regulations would not be effective until published in the Federal Register during the next fishery regulatory cycle.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Neutral.

SELECTED SUBSISTENCE REGULATIONS

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Unalaska Area.

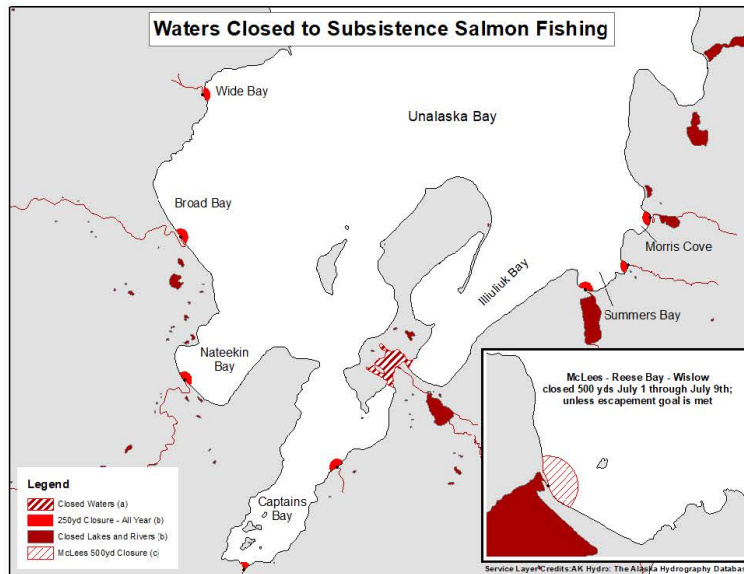
5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN: 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay. "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53° 52.64' N. lat., 166° 32.30' W. long., to a point on the Unalaska Bay shore at 53° 52.68' N. lat., 166° 30.91' W. long. Additional household permits are available by request from the local ADF&G representative.

5 AAC 01.375. CLOSED WATERS: (see map below)

- a. The waters of Unalaska Lake (at the city of Unalaska), its tributaries and the outlet stream, and all waters between Unalaska and Amaknak Islands, **including Margaret's Bay**, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long. and north of a line from a point south of Agnes Beach at 53° 52.28' N. lat, 166° 32.68' W. long. to a point at 53° 52.35' N. lat, 166° 32.95' W. long. on Amaknak Island.
- b. **Within Unalaska Bay** (south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point): **all waters are closed to subsistence salmon fishing within the waters of all streams, lakes, and within 250 yards of any anadromous stream outlet** (except for the vicinity of Unalaska Lake as described above in (a) above.
- c. **At Reese Bay (Wislow)**, no subsistence salmon fishing is allowed in the waters of McLees Lake and it's drainages or tributaries. **No subsistence salmon fishing is allowed within 500 yards of the terminus of the McLees Lake outlet during July 1 through July 9.**

ADDITIONAL RESTRICTIONS:

1. **This permit must be carried by permit holder while harvesting and transporting subsistence caught salmon and must be readily available for inspection.**
2. **The number of subsistence salmon, the species, the location of the catch, and the date of catch must be recorded on this permit immediately after harvest.** Maintain a consistent tally of your catch on the permit. This includes fish that are given away or shared.
3. **Subsistence fisherman must be in attendance of their net at all times that it is fished.**
4. In the Unalaska District, subsistence net may be fished **ONLY from 6:00 AM through 9:00 PM daily.**
5. Only household members listed on the permit may assist in the harvest of subsistence salmon.
6. Salmon may be taken by seine or gillnet. Gillnets are restricted to 50 fathoms total length. Each gillnet must have a buoy on each end. The **name and address** of the operator must be plainly and legibly inscribed on each buoy.
7. From June 1 through September 15, a salmon seine vessel may not be used to take salmon for subsistence use 24 hours before or 12 hours after an open commercial fishing period within an area open to commercial salmon fishing.
8. **Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.**
9. **No more than half the width of a stream or its mouth may be obstructed by a net.** This restrictions includes blocking the stream mouth while "roundhauling."



For questions contact Fish and Game office: Dutch Harbor (907) 581-1239; Kodiak (907) 486-1882.

FCR21-11 Executive Summary	
General Description	Closure Review FCR21-11 reviews the closure to the harvest of salmon by Federally qualified subsistence users in the McClees Lake drainage.
Current Regulation	<p>§___.27(e)(6) Aleutian Islands Area</p> <p><i>(iv) You may not subsistence fish for salmon in the following waters:</i></p> <p style="text-align: center;"><i>(D) Waters of McClees Lake and its tributaries and outlet stream</i></p>
OSM Conclusion	Eliminate the closure and modify the regulations to allow Federally qualified subsistence users to harvest salmon with means other than seine and gillnet in the Federal waters of the McClees Lake drainage.
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	Defer
Interagency Staff Committee Comments	Defer
ADF&G Comments	Neutral
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW

FCR21-11

Closure Location: McLees Lake drainage—Salmon

Current Federal Regulation

§ __.27(e)(6) Aleutian Islands Area

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

(D) Waters of McLees Lake and its tributaries and outlet stream

Relevant Federal Regulations

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

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

§ __.27 Subsistence Taking of Fish

(b) Methods, means, and general restrictions.

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

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

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

§ __.27(e)(6) Aleutian Islands Area

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.

(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.

(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.

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

Note: In the Unalaska District, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (**Appendix 1**, see 5 AAC 01.380. Subsistence fishing permits).

Closure Dates: Year-round

Current State Regulation

Subsistence Regulations

Aleutian Islands Area

5 AAC 01.370. Lawful gear and gear specifications

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

5 AAC 01.375 Waters closed to subsistence fishing

The following waters are closed to subsistence fishing for salmon:

* * * *

(5) waters of McLees Lake and its tributaries and its outlet stream; in the waters of Reese Bay from July 1 through July 9, salmon may not be taken within 500 yards of the outlet stream terminus to McLees Lake;

5 AAC 01.380. Subsistence fishing permits

(a) Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(b) No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit. . .

(2) a permit holder may obtain an additional permit from the department to harvest more salmon other than sockeye salmon from Front Beach in Unalaska Bay.

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

Sport Regulations

Alaska Peninsula and Aleutian Islands Area

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

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

(1) king salmon:

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

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

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

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

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

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

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

Regulatory Year Initiated: 2001

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters comprise McLees Lake, its outlet stream and primary tributary, which are within and adjacent to the exterior boundaries of the Alaska Maritime National Wildlife Refuge (**Figure 1**).

Regulatory History

In 1999, the Federal Subsistence Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries regulations, (64 Fed. Reg. 5; 1284 [January 8, 1999]). However, this closure was not adopted until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

Closure Last Reviewed

There have been no previous reviews of this closure.

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

Section §815(3) of ANILCA states:

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

In 1999, the Federal Subsistence Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries regulations, (64 Fed. Reg. 5; 1284 [January 8, 1999]).



Figure 1. Lands around McLees Lake on Unalaska Island. Yellow line indicates lands are within the external boundary of Alaska Maritime National Wildlife Refuge. Areas in brown coloration indicate corporation ownership and areas in green coloration indicate Alaska Maritime National Wildlife Refuge lands. The bold yellow line indicates the exterior boundaries of the Alaska Maritime National Wildlife Refuge. Image courtesy of the FWS Land Mapper for the Alaska Region, developed by the USFWS, Alaska Region, Division of Realty.

Customary and Traditional Use Determination

Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for all fish in the Aleutian Islands Area.

Council Recommendation for Original Closure

None

State Recommendation for Original Closure

None

Biological Background

Estimates of escapement have been conducted since 1974, starting with aerial surveys and switching to a weir at the outlet of the lake in 2001 (Lipka and Fox 2017). From 2001 to 2011, various offices of the US Fish and Wildlife Service (USFWS) and Qawalangin Tribe operated a weir to enumerate McLees Lake escapement, which was funded by the Office of Subsistence Management (OSM). When this funding ceased, ADF&G, in cooperation with the Qawalangin Tribe, acquired grant monies through the Alaska Sustainable Salmon Fund (AKSSF) to continue weir operations from 2012 through 2017. No funding was available to operate a weir during the 2018 and 2019 season. Funding provided by OSM to operate a weir was secured from 2020 through 2023. This system produces mainly Sockeye Salmon, but also sees occasional steelhead trout (Johnson and Blossom 2018). Escapements have ranged from a high of 101,793 Sockeye Salmon (2002) to a low of 8,661 (2008), with the most recent reported 5-year average (2013-2017) of 20,297 fish (Hildreth and Finkle 2013, Lipka and Fox 2017).

Community Background

The city of Unalaska is situated on Unalaska Island and is the largest city in the Aleutian Islands. The Port of Dutch Harbor is situated on adjacent Amaknak Island and is connected to Unalaska by a strip of road bridging the South Channel. This port and city supports one of the largest commercial fisheries in the nation. According to the 2010 United States Census, Unalaska had a population of 4,376 people. Considering the industrial scale of the fisheries operations there, many of the “residents” as recorded in the 2010 census may actually be seasonal workers that do not claim permanent Alaskan residency. As a context for assessing the actual number of permanent residents in Unalaska, in “Subsistence Fisheries Harvest Assessment and Traditional Ecological Knowledge, Lower Alaska Peninsula and Aleutian Islands,” Davis lists the population of Unalaska in 2000 as 2,091 people, less than half that of the 2000 census (4,283) (Davis 2005). Researchers specifically excluded any group quarter residents.

The most recent comprehensive subsistence surveys conducted by the ADF&G, Division of Subsistence, were completed for the 1993 study year (Scarborough and Fall 1997). During the study year permanent residents of Unalaska harvested approximately 195 lb of subsistence foods per person, of which approximately 28%, or 54 lb per person, was salmon. Harvest methods for the salmon caught that year were “subsistence methods” (primarily nets, 62% of the salmon harvest), rod and reel (34% of the salmon harvest), and removal from commercial harvests (4% of the salmon harvest) (Scarborough and Fall 1997).

In 2013, Reedy conducted a partial house-to-house salmon harvest survey in Unalaska and made these observations:

Many people go beach seining at Front Beach in Unalaska Bay for salmon in the summer months. The culture camp seines for pinks as well. Pink salmon are the most abundant on the island but not the most desired fish. Their eggs are harvested and can be stored frozen. Sockeye is the most desired fish but abundance is down and this is blamed by locals on road construction, culverts, sediment runoff, and siltation ruining spawning beds. . . . A high school class runs the local coho

salmon hatchery in the Iliuliuk River led by the science teacher, and the students are stewards of the river and its fish. Locals make lox with the salmon. Silvers are often smoked. Many keep sockeye heads for soup (Reedy 2016: 25).

Harvest History

There is an active State managed subsistence fishery targeting the Sockeye Salmon returning to McLees Lake, which takes place in the marine waters of Reese Bay near the lake outlet. Subsistence harvests of Sockeye Salmon returning through Reese Bay to McLees Lake are typically taken by set gillnet in Reese Bay during the months of June and July. Participation requires a State subsistence permit, and estimates of harvests for this fishery between 1985 and 2017 have ranged from 436 to 4,694 fish annually (Fox et al. 2019). There were 23 permits issued for the first year of this fishery in 1985, and a high of 129 permits issued in 2013. This fishery is often the primary Unalaska Island subsistence salmon fishery. The McLees Lake stock harvested in Reese Bay has historically provided 45-94% of the annual Sockeye Salmon harvest in this community (**Figure 2**; Fox et al. 2019).

Other Alternative(s) Considered

Alternatives considered upon review of a closure include maintaining the status quo, eliminating the closure if no longer necessary, modifying the timing of the closure, or eliminating the closure and restricting legal gear and harvest limits. Salmon returns into the McLees Lake drainage have fluctuated over the years but still support sport fishing and a robust subsistence harvest in the marine waters of Reese Bay. Maintaining the status quo, which would continue to allow sport fishing while prohibiting subsistence, does not provide for a subsistence priority; therefore, this alternative was rejected.

Eliminating the closure without some restriction was also rejected due to the vulnerable status of the salmon population within the fresh waters. One modification considered would close the waters of McLees Lake, its tributaries and outlet stream, to all uses, restricting both subsistence fishing and sport opportunity within the drainage. This modification was rejected because the system currently supports a limited harvest under sport regulation, and may support a similar opportunity under limited subsistence regulations, providing a subsistence opportunity for Federally qualified subsistence users.

OSM CONCLUSION

- maintain status quo**
- modify or eliminate the closure**

The OSM Conclusion is to modify the closure to allow limited opportunity for subsistence harvest in McLees Lake, its tributaries and outlet stream. Under this modification you may not use a seine or a gill net and take no more than 20 salmon.

The modifications should read:

§ __.27(e)(6) Aleutian Islands Area

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

~~(D) Waters of McLees Lake and its tributaries and outlet stream~~

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

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

§ __.27 Subsistence Taking of Fish

(b) Methods, means, and general restrictions.

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

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

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

§ __.27(e)(6) Aleutian Islands Area

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.

*(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit **except in waters of McLees Lake and its tributaries and outlet stream, you may not use a seine or a gillnet.***

(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

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*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit, **and in waters of McLees Lake and its tributaries and outlet stream you may take no more than 20 salmon per day.** You may obtain an additional permit.*

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

Justification

Currently this drainage is closed to the harvest of salmon by Federally qualified subsistence users and remains open to other uses. This system should be open to limited subsistence harvest. If this closure is modified to open to subsistence harvest of salmon, OSM recommends the harvest be restricted to rod and

reel, the possible use of dip net, and low harvest and possession limits in order to protect healthy populations of salmon in the system.

LITERATURE CITED

Fox, E. K. C., L. K. Strumpf, and C. J. Whiteside. 2019. South Alaska Peninsula salmon annual management report, 2018 and the 2017 subsistence fisheries in the Alaska Peninsula, Aleutian Islands, and Atka-Amlia Islands management areas. Alaska Department of Fish and Game, Regional Information Report No. 4K19-01. Kodiak, AK.

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Johnson, J. and B. Blossom. 2018. Catalog of waters important for spawning, rearing, or migration of anadromous fishes – Arctic Region, Effective June 1, 2018, Alaska Department of Fish and Game, Special Publication No. 18-02, Anchorage.

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Reedy, K. 2016. Island networks: Aleutian Islands salmon and other subsistence harvests. Department of Anthropology, Idaho State University, Pocatello, ID.

Scarborough, L., and J.A. Fall. 1997. Unalaska: subsistence harvest and use information. Alaska Department of Fish and Game Division of Subsistence, Special Publication No. SP1997-001, Anchorage.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Kodiak/Aleutian Subsistence Regional Advisory Council

Defer FCR21-11. This closure was adopted from the Alaska Department of Fish and Game regulations 20 years ago. This is the initial review of this closure by Kodiak/Aleutians Subsistence Regional Advisory Council. The Council was not able to talk with the local Tribes and Advisory Committees regarding this closure and analysis prior to the Council meeting date.

The Council deferred seven Fishery Closure Reviews to the March 9-10, 2021 public meeting. In a unanimous vote, the Council stated the Fishery Closure Reviews should have public input that directly affects the communities and the Council will consider those comments at its winter meeting. The Council will address the Closure Reviews at the winter 2021 Kodiak/Aleutians Subsistence Advisory Council meeting to develop recommendations to the Board.

The Council and OSM staff are contacting the State of Alaska Local Advisory Committees and Tribes regarding the seven closure reviews for public input for the Council to consider.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Kodiak/ Aleutians Subsistence Regional Advisory Council (Council) deferred action on seven fishery closure reviews specific to their region. The Council deferred the closures because they wanted to collect additional information from local communities that could be impacted by actions taken on these closures. The Council was not confident they had sufficient input from the affected communities to make recommendations and wanted to ensure the Council made the appropriate recommendations as many closures focused on small and sensitive fisheries that have never been open to subsistence harvest. The Council is currently working with the Office of Subsistence Management (OSM) to make contacts with specific communities to gather additional feedback and plans to provide final recommendations on the deferred closure reviews during their winter Council meeting (March 2021).

The ISC believes the Federal Subsistence Board (Board) should consider deferring action on these closure reviews until the next fishery regulatory cycle. The seven closures that are up for review have been in place for 20 years and thus deferring action to the next fishery regulatory cycle would likely not have a noticeable impact to subsistence communities. Furthermore, if the Board took action on these closures during the summer 2021 Board session, any new regulations would not be effective until published in the Federal Register during the next fishery regulatory cycle.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Neutral.

SELECTED SUBSISTENCE REGULATIONS

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Unalaska Area.

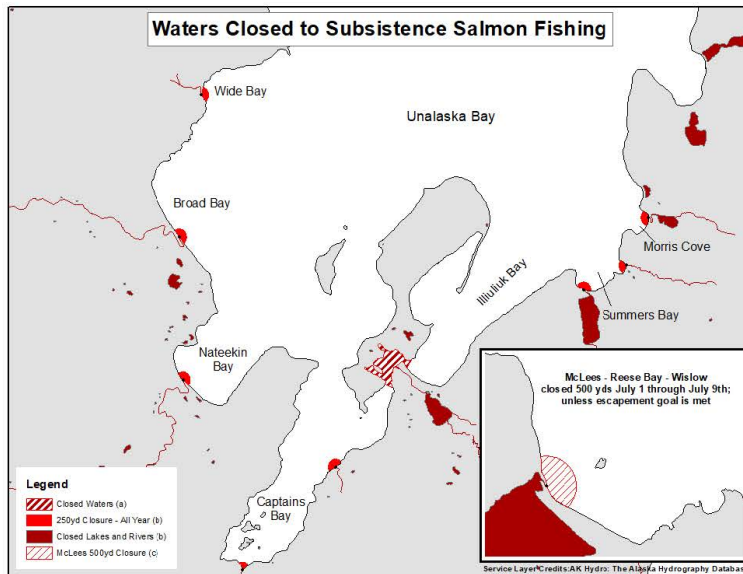
5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN: 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay. "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53° 52.64' N. lat., 166° 32.30' W. long., to a point on the Unalaska Bay shore at 53° 52.68' N. lat., 166° 30.91' W. long. Additional household permits are available by request from the local ADF&G representative.

5 AAC 01.375. CLOSED WATERS: (see map below)

- a. The waters of Unalaska Lake (at the city of Unalaska), its tributaries and the outlet stream, and all waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long. and north of a line from a point south of Agnes Beach at 53° 52.28' N. lat., 166° 32.68' W. long. to a point at 53° 52.35' N. lat., 166° 32.95' W. long. on Amaknak Island.
- b. **Within Unalaska Bay** (south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point): **all waters are closed to subsistence salmon fishing within the waters of all streams, lakes, and within 250 yards of any anadromous stream outlet** (except for the vicinity of Unalaska Lake as described above in (a) above).
- c. At Reese Bay (Wislow), no subsistence salmon fishing is allowed in the waters of McLees Lake and its drainages or tributaries. **No subsistence salmon fishing is allowed within 500 yards of the terminus of the McLees Lake outlet during July 1 through July 9.**

ADDITIONAL RESTRICTIONS:

1. **This permit must be carried by permit holder while harvesting and transporting subsistence caught salmon and must be readily available for inspection.**
2. **The number of subsistence salmon, the species, the location of the catch, and the date of catch must be recorded on this permit immediately after harvest.** Maintain a consistent tally of your catch on the permit. This includes fish that are given away or shared.
3. **Subsistence fisherman must be in attendance of their net at all times that it is fished.**
4. In the Unalaska District, subsistence net may be fished **ONLY from 6:00 AM through 9:00 PM daily.**
5. Only household members listed on the permit may assist in the harvest of subsistence salmon.
6. Salmon may be taken by seine or gillnet. Gillnets are restricted to 50 fathoms total length. Each gillnet must have a buoy on each end. The **name and address** of the operator must be plainly and legibly inscribed on each buoy.
7. From June 1 through September 15, a salmon seine vessel may not be used to take salmon for subsistence use 24 hours before or 12 hours after an open commercial fishing period within an area open to commercial salmon fishing.
8. **Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.**
9. **No more than half the width of a stream or its mouth may be obstructed by a net.** This restriction includes blocking the stream mouth while "roundhauling."



For questions contact Fish and Game office: Dutch Harbor (907) 581-1239; Kodiak (907) 486-1882.

FCR21-13 Executive Summary	
General Description	Closure Review FCR21-13 reviews the closure to the harvest of salmon by Federally qualified users in the Russel Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon.
Current Regulation	<p>§100.27(e)(7) Alaska Peninsula Area</p> <p>***</p> <p><i>(v) You may not subsistence fish for salmon in the following waters:</i></p> <p><i>(A) Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon;</i></p>
OSM Conclusion	Modify the closure to include only Nurse Lagoon and within 500 yards outside Nurse Lagoon and modify regulations to allow Federally qualified subsistence users to harvest salmon with means other than seine and gillnet in the Federal public waters of Russel Creek.
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	Defer
Interagency Staff Committee Comments	Defer
ADF&G Comments	Neutral
Written Public Comments	None

**FEDERAL FISHERIES CLOSURE REVIEW
FCR21-13**

Closure Location: Russell Creek and Nurse Lagoon—Salmon

Current Federal Regulation

§100.27(e)(7) Alaska Peninsula Area

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

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

Relevant Federal Regulations

§100.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

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

§__.27 Subsistence Taking of Fish

(b) Methods, means, and general restrictions.

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

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

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

§100.27(e)(7) Alaska Peninsula Area

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

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

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

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

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

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

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

Closure Dates: Year-round

Current State Regulations

Subsistence Regulations

Alaska Peninsula Area

5 AAC 01.420. Lawful gear and gear specifications

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

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

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

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

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

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

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

5 AAC 01.430. Subsistence fishing permits

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

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

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

5 AAC 01.425 Waters closed to subsistence fishing

The following waters are closed to subsistence fishing for salmon:

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

Sport Regulations

Alaska Peninsula and Aleutian Islands Area

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

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

(1) king salmon:

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

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

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

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

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

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

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

Regulatory Year Initiated: 1992

Customary and Traditional Use Determination

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

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. Nurse Lagoon and Russel Creek are Federal public waters within and adjacent to the external boundaries of the Alaska Peninsula National Wildlife Refuge.

Regulatory History

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

Closure Last Reviewed

There have been no previous reviews of this closure.

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

Section §815(3) of ANILCA states:

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

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



Figure 1. Lands around Nurse Lagoon and Russel Creek. Areas in brown surrounding the lagoon and lower portion of the creek draining into the lagoon are all conveyed to the King Cove Corporation. Image courtesy of the FWS Land Mapper for the Alaska Region, developed by the USFWS, Alaska Region, Division of Realty.

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background

Russell Creek has been surveyed and found to contain Chum, Pink, and Sockeye salmon as well as steelhead trout (Johnson and Blossom 2018). Annual indexing of salmon escapement is conducted

through aerial surveys and recent data shows variable returns of Chum and Pink salmon (**Table 1**). There was also a count of 600 Coho Salmon observed during the 2014 season (Keyse and Fox 2015).

Table 1. Aerial survey estimates of Chum and Pink salmon to Russell Creek (Poetter and Nichols 2014, Keyse and Fox 2015, Keyse et al. 2016, Fox et al. 2017, Fox et al. 2018, Fox et al. 2019).

Year	Chum Salmon	Pink Salmon
2013	20,000	8,000
2014	55,500	60,400
2015	18,800	29,000
2016	113,000	0
2017	125,000	140,000
2018	12,500	2,500

Community Background

Two communities have consistent access to Russell Creek and Nurse Lagoon. Cold Bay is an incorporated city with a population of 108 residents that is home to the Izembek National Wildlife Refuge. King Cove is an incorporated city with a population of 938 residents and an economy dependent on commercial fisheries and seafood processors. King Cove is located across the bay from the Cold Bay community and travel between the communities is limited to boat or plane. Cold Bay residents can access Russell Creek and Nurse Lagoon by road and foot. The small watershed is located directly east of the end of the Cold Bay airport runway.

The most recent comprehensive subsistence surveys conducted in each community were completed for the 2016 study year. The final report is in process but the data are available on the ADF&G, Division of Subsistence Community Subsistence Information System (CSIS). During the study year residents of Cold Bay harvested approximately 232 lb of subsistence foods per person, of which 148 lb per person was salmon. King Cove residents harvested approximately 297 lb per person of subsistence foods, of which 192 lb per person was salmon (CSIS).

Harvest History

Russell Creek is closed to subsistence fishing under both Federal and State regulations; however, it is open to sport fishing. The general Alaska Peninsula/Aleutian Island Remote Zone sport fishing salmon regulations allow 5 salmon (combination of species excluding Chinook) per day and 10 in possession. There is no specific harvest reported for Russell Creek as harvest is so low, but the harvest for the combined Cold Bay Area in years where 12 or more Statewide Sport Fish Harvest Survey responses were received between 2009 and 2018 range between 1,249 and 5,048 salmon (ADF&G 2020). Commercial fishing is not allowed in Russell Creek and Nurse Lagoon and within 500 yards from the stream terminus of Russell Creek and Nurse Lagoon (5 AAC 39.290).

Federal subsistence regulations would apply if the closure was removed. For salmon this would require a State subsistence permit, with reporting due annually by October 31. Salmon taken under the permit could be harvested by gillnet, rod and reel, or gear specified on the permit. Salmon could also be taken without a permit by snagging (hand line or rod and reel), using a spear, bow and arrow, or capture by hand. The salmon harvest limit for the Alaska Peninsula Area is 250 fish.

Federally qualified subsistence users harvest salmon with rod and reel under State sport fishing regulations at Russell Creek (Reedy 2020, pers. comm.). The adjacent land is owned by the King Cove Corporation, and a person must get a permit from the Corporation to access Russell Creek, or a person can access the creek using one of three Bureau of Land Management access easements (Ris Dahl 2020, pers comm.). For Cold Bay residents, the larger Sockeye Salmon subsistence efforts are at Mortensen's Lagoon (a couple miles southeast from Russell Creek), with rod and reel and beach seines. Many King Cove subsistence harvesters come over to Mortenson's Lagoon as well for the majority of their homepack, since fishing options closer to King Cove are limited. They use the ferry or share on a family member's boat to travel between the communities (Reedy 2020, pers. comm.).

Other Alternative(s) Considered

Alternatives considered upon review of a closure include maintaining the status quo, eliminating the closure if no longer necessary, modifying the timing of the closure, or eliminating the closure and restricting legal gear and harvest limits. Salmon returns into the Russell Creek drainage supports some fresh water sport opportunity and a marine based subsistence harvest under State regulations. Maintaining the status quo, which would continue to allow sport fishing while prohibiting subsistence, does not provide for a subsistence priority; therefore this alternative was rejected.

Eliminating the closure was also rejected due to the vulnerable status of the salmon population once in the fresh water and particularly in the shallows of Nurse Lagoon. One modification considered would close the waters of Russell Creek, its tributaries and outlet stream, and Nurse Lagoon, to all uses, restricting both subsistence fishing and sport opportunity within the drainage. This modification was rejected because the system currently supports a limited harvest under sport regulation, and may support a similar opportunity under limited subsistence regulations, providing a subsistence opportunity for Federally qualified subsistence users.

OSM CONCLUSION

maintain status quo

modify or eliminate the closure

The OSM Conclusion is to modify the closure to allow limited opportunity for subsistence harvest in Russel Creek, its tributaries and outlet stream. Under this modification you may not use a seine or a gill net, but could use dipnet in addition to snagging, using a spear, bow and arrow, or capturing by bare hand. Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon would be closed to all uses.

The modification should read:

Alaska Peninsula Area

§100.27(e)(7)

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

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

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

(vi) *You may take salmon by seine, gillnet, rod and reel, or with gear specified on a subsistence fishing permit. **In the waters of Russel Creek, its tributaries and outlet stream, you may not use a seine or a gillnet.** You may also take salmon without a permit by snagging (by handline or rod and reel), **dipnet**, using a spear, bow and arrow, or capturing by bare hand.*

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

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

Justification

Although the current closure to Federal subsistence fishing within Russell Creek and Nurse Lagoon is mirrored under State subsistence regulations, harvest is allowed under State sport fishing regulations. Russell Creek is surrounded by corporation land and has three public access points. Annual aerial surveys allow rough observation of trends in returns and take conducted under permits would provide information on subsistence harvest. Specific fishery restrictions could be enacted through the proposal process should issues or concerns arise. While the customary and traditional use determination would allow harvest under this fishery by all rural residents of the Alaska Peninsula Area, it is likely that harvest would be limited to the rural residents of Cold Bay. It is reasonable to eliminate this closure at this time.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Kodiak/Aleutian Subsistence Regional Advisory Council

Defer FCR21-13. This closure was adopted from the Alaska Department of Fish and Game regulations 20 years ago. This is the initial review of this closure by Kodiak/Aleutians Subsistence Regional Advisory Council. The Council was not able to talk with the local Tribes and Advisory Committees regarding this closure and analysis prior to the Council meeting date.

The Council deferred seven Fishery Closure Reviews to the March 9-10, 2021 public meeting. In a unanimous vote, the Council stated the Fishery Closure Reviews should have public input that directly affects the communities and the Council will consider those comments at its winter meeting. The Council will address the Closure Reviews at the winter 2021 Kodiak/Aleutians Subsistence Advisory Council meeting to develop recommendations to the Board.

The Council and OSM staff are contacting the State of Alaska Local Advisory Committees and Tribes regarding the seven closure reviews for public input for the Council to consider.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Kodiak/ Aleutians Subsistence Regional Advisory Council (Council) deferred action on seven fishery closure reviews specific to their region. The Council deferred the closures because they wanted to collect additional information from local communities that could be impacted by actions taken on these closures. The Council was not confident they had sufficient input from the affected communities to make recommendations and wanted to ensure the Council made the appropriate recommendations as many closures focused on small and sensitive fisheries that have never been open to subsistence harvest. The Council is currently working with the Office of Subsistence Management (OSM) to make contacts with specific communities to gather additional feedback and plans to provide final recommendations on the deferred closure reviews during their winter Council meeting (March 2021).

The ISC believes the Federal Subsistence Board (Board) should consider deferring action on these closure reviews until the next fishery regulatory cycle. The seven closures that are up for review have been in place for 20 years and thus deferring action to the next fishery regulatory cycle would likely not have a noticeable impact to subsistence communities. Furthermore, if the Board took action on these closures during the summer 2021 Board session, any new regulations would not be effective until published in the Federal Register during the next fishery regulatory cycle.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Neutral.

SELECTED SUBSISTENCE REGULATIONS

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Alaska Peninsula Area.

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

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

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

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

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

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

5 AAC 01.423. SPECIAL PROVISIONS:

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

5 AAC 01.425. WATERS CLOSED TO SUBSISTENCE SALMON FISHING:

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

ADDITIONAL RESTRICTIONS:

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

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

FCR21-16 Executive Summary	
General Description	Closure Review FCR21-16 reviews the closure to harvest salmon by Federally qualified subsistence users in the closed waters of the Buskin River.
Current Regulation	<p>Kodiak Area–Salmon</p> <p>50 CFR 100.27(e)(9) Kodiak Area.</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p><i>(B) Buskin River closed waters—All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude.</i></p>
OSM Conclusion	Eliminate the closure and modify regulations to allow Federally qualified subsistence users to harvest salmon in the Buskin River closed waters with rod and reel.
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	Defer
Interagency Staff Committee Comments	Defer
ADF&G Comments	Neutral
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW

FCR21-16

Closure Location: Buskin River—Salmon

Current Federal Regulation

Kodiak Area—Salmon

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

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

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

Closure Dates: Year-round

Current State Subsistence Regulation

Kodiak Area – Salmon

5 AAC 01.525

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

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

Current State Sport Fish Regulation

Kodiak Area—Salmon

5 AAC 64.022

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

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

(A) in fresh waters:

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

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

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

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

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

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

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

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

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

Regulatory Year Initiated: 1992

Customary and Traditional Use Determination

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

Extent of Federal Public Lands/Waters

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

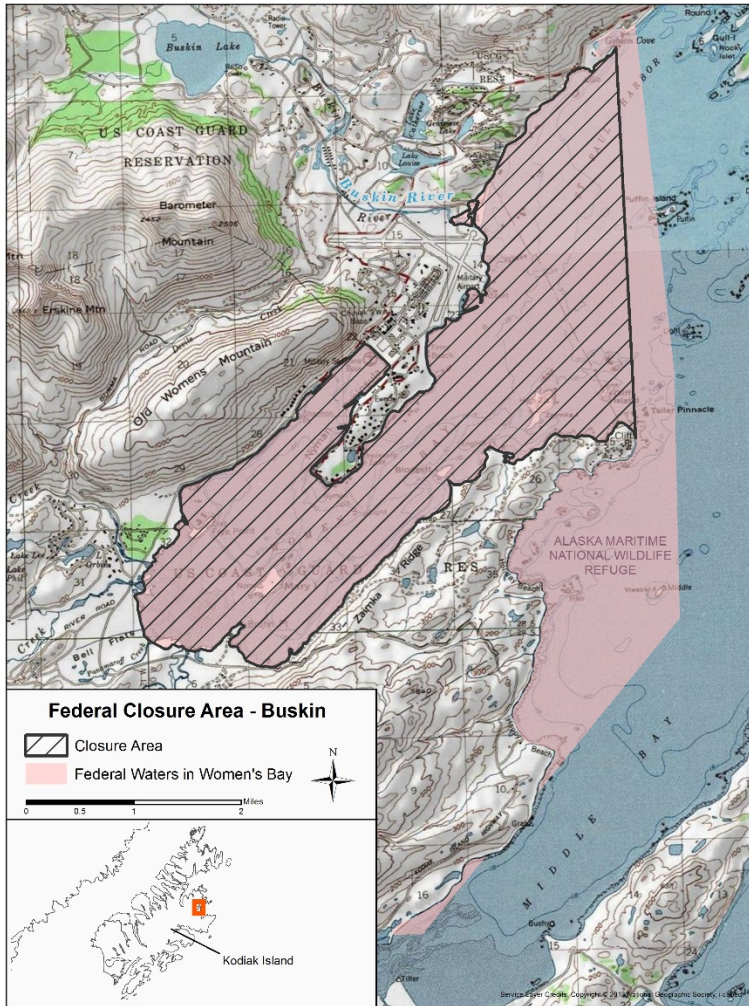


Figure 1. Federal waters in Women's Bay, Kodiak Island.

Regulatory History

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

Closure last reviewed

There have been no previous reviews of this closure.

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

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

Section §815(3) of ANILCA states: *Nothing in this title shall be construed as – (3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on public lands (other than national parks and monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816, to continue subsistence uses of such populations, or pursuant to other applicable law.*

Council Recommendation for Original Closure:

N/A

State Recommendation for Original Closure:

N/A

Biological Background and Harvest History

Both Federal and State subsistence users harvest Sockeye Salmon (*Oncorhynchus nerka*) and Coho Salmon (*Oncorhynchus kisutch*) in marine waters near the mouth of the Buskin River. However, the marine waters adjacent mouth of the Buskin River are closed under both Federal and State subsistence regulation to protect salmon as they migrate through the estuary (**Figure 1**). Historically, the marine waters beyond the closure are the single largest source of subsistence salmon harvested in Federal waters within the Kodiak-Aleutians Region (Witteveen et al. 2020). It is also one of the most popular sport fishing locations because of road access and proximity to the City of Kodiak. Both Sockeye and Coho salmon are targeted in the sport fishery. In addition, commercial fisheries in the marine waters surrounding Kodiak Island also harvest a small number of Buskin River salmon (Anderson et al. 2019).

Annual Sockeye Salmon escapement returning to the Buskin River is estimated by a combination of two weirs from May through July. The majority of fish returning to the system pass through a weir located at the outlet of Buskin Lake. A second smaller portion of the escapement travels up a tributary originating from the Catherine-Louise lake system that intersects the Buskin River downstream of Buskin Lake. The Buskin River/Catherine-Louise lake system has a Sockeye Salmon escapement goal of 5,000 to 8,000 (Anderson et al. 2019). The Buskin River has seen both very strong and relatively weak Sockeye Salmon runs over the past 10 years (**Table 1**). In 2018, an escapement of 4,284 Sockeye Salmon was the lowest number of fish returning in the past 10-year period (2010 – 2019). In the following year (2019), one of the highest passages was recorded (12,297 fish) for that same 10-year period.

Fish harvested from the Buskin River generally fluctuated with the escapement, but due to its proximity to the City of Kodiak and road access, the Buskin River continues to support both

subsistence and sport fishing even in years with small returns. The Sockeye Salmon fisheries occurs primarily in June due to the early run timing. Between 2010 and 2019, the annual subsistence harvests have ranged from 473 to 6,083 fish, with a low subsistence harvest of 598 fish in 2019. The majority of salmon harvested under in the State sport fishery occurs within the fresh waters of the Buskin River. Salmon harvest in the sport fishery ranged from 203 to 4,237 fish for the time period of 2010 – 2018 with an annual average of 2,054 fish (**Table 1**).

Table 1. Buskin River Sockeye Salmon subsistence harvest, sport fishery harvest and estimate escapement 2010-2019 (Witteveen et al. 2020).

Year	Subsistence Harvest	Sport Harvest	Buskin River Weir Count	L. Louise Weir Count
2010	1,476	332	9,800	421
2011	4,674	1,277	11,982	360
2012	2,606	1,481	8,565	301
2013	6,083	1,310	16,189	903
2014	5,459	4,237	13,976	925
2015	3,866	3,984	8,718	280
2016	4,743	2,503	11,584	156
2017	4,916	3,161	7,222	141
2018	473	203	4,284	83
2019	598		12,297	107
average	3,489	2,054	10,462	368

The Buskin River supports one of the historically most productive Coho Salmon stocks in the Kodiak Management Area (Polum et al. 2019). Coho Salmon typically start returning in early to mid-August and continue into the fall. The escapement is monitored by a weir about a mile above the river mouth. The Buskin River has a Coho Salmon escapement goal of 4,700-9,600 fish. From 2010 to 2019, weir counts of Coho Salmon ranged from a high of 8,413 fish in 2014 to a low of 2,513 fish in 2016 (**Table 2**). The average escapement was 5,390 fish during this time and, in 2019, the estimate escapement was 5,037 fish.

Large subsistence and sport fish harvests occur on these returning stocks. From 2010 – 2018 the subsistence harvest averaged 2,945 fish. Between 2010 and 2018, the annual subsistence harvests have range from 1,919 to 4,188 (**Table 2**). The Buskin River Coho Salmon harvest in the sport fishery ranged from 1,793 to 5,388 fish for the time period of 2010 – 2018 with an average annual harvest of 3,293 fish.

Table 2. Buskin River Coho Salmon subsistence harvest, sport fishery harvest and estimated escapement 2010-2019 (Polum et al. 2019).

Year	Subsistence Harvest	Sport Harvest	Buskin River Weir Count
2010	4,188	2,847	6,808
2011	2,344	3,640	6,026
2012	2,920	1,926	5,291
2013	2,528	4,926	5,386
2014	3,916	5,388	8,413
2015	3,249	4,889	4,341
2016	2,267	1,895	2,513
2017	1,919	2,337	5,559
2018	3,174	1,793	4,523
2019			5,037
average	2,945	3,293	5,390

OSM CONCLUSION:

maintain status quo

modify or eliminate the closure

Currently, users are allowed to harvest Sockeye and Coho Salmon under State sport fish regulation in this area while harvest is prohibited by Federally qualified subsistence user. Modifying the Federal subsistence regulations to allow harvest with rod and reel would provide similar opportunity for Federally qualified subsistence users.

The modified regulation should read:

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

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

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

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

Justification

This closure effects a relatively small portion of marine water at the mouth of the Buskin River under Federal jurisdiction. Allowing the use of rod and reel for subsistence fishing by Federally qualified subsistence users will offer subsistence opportunity while still limiting harvest. As written, harvest and possession limits would mirror those for taking fish under State sport fishing regulations. Continuing the closure for other gear types will protect salmon from over harvest as they congregate in the estuary preparing to move into in the river while acclimating from the marine environment to the freshwater environment.

Literature Cited

Anderson, T. J., J. Jackson, B. A. Fuerst, and A. E. Dorner. 2019. Kodiak Management Area commercial salmon fishery annual management report, 2019. Alaska Department of Fish and Game, Fishery Management Report No. 19-29, Anchorage.

Polum, T., M. Witteveen, and M. Stratton. 2019. Report on selected sport fisheries of the Kodiak Management Area, 2009–2018. Alaska Department of Fish and Game, Fishery Management Report No. 19-27, Anchorage.

Witteveen, M., and D. Evans. 2020. Stock assessment of sockeye salmon from the Buskin River, Kodiak, Alaska, 2019 Federal Subsistence Fishery Resource Monitoring Program, Annual Report for Project No. 18-400. U. S. Fish and Wildlife Service, Office of Subsistence Management, Anchorage, Alaska.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Kodiak/Aleutian Subsistence Regional Advisory Council

Defer FCR21-16. This closure was adopted from the Alaska Department of Fish and Game regulations 20 years ago. This is the initial review of this closure by Kodiak/Aleutians Subsistence Regional Advisory Council. The Council was not able to talk with the local Tribes and Advisory Committees regarding this closure and analysis prior to the Council meeting date.

The Council deferred seven Fishery Closure Reviews to the March 9-10, 2021 public meeting. In a unanimous vote, the Council stated the Fishery Closure Reviews should have public input that directly affects the communities and the Council will consider those comments at its winter meeting. The Council will address the Closure Reviews at the winter 2021 Kodiak/Aleutians Subsistence Advisory Council meeting to develop recommendations to the Board.

The Council and OSM staff are contacting the State of Alaska Local Advisory Committees and Tribes regarding the seven closure reviews for public input for the Council to consider.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Kodiak/ Aleutians Subsistence Regional Advisory Council (Council) deferred action on seven fishery closure reviews specific to their region. The Council deferred the closures because they wanted to collect additional information from local communities that could be impacted by actions taken on these closures. The Council was not confident they had sufficient input from the affected communities to make recommendations and wanted to ensure the Council made the appropriate recommendations as many closures focused on small and sensitive fisheries that have never been open to subsistence harvest. The Council is currently working with the Office of Subsistence Management (OSM) to make contacts with specific communities to gather additional feedback and plans to provide final recommendations on the deferred closure reviews during their winter Council meeting (March 2021).

The ISC believes the Federal Subsistence Board (Board) should consider deferring action on these closure reviews until the next fishery regulatory cycle. The seven closures that are up for review have been in place for 20 years and thus deferring action to the next fishery regulatory cycle would likely not have a noticeable impact to subsistence communities. Furthermore, if the Board took action on these closures during the summer 2021 Board session, any new regulations would not be effective until published in the Federal Register during the next fishery regulatory cycle.

FCR21-18 Executive Summary	
General Description	Closure Review FCR21-18 reviews the closure to the harvest of salmon in the closed waters of Afognak Bay.
Current Regulation	<p>Kodiak Area – Salmon</p> <p>50 CFR 100.27(e)(9) Kodiak Area</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p><i>(D) In Afognak Bay north and west of a line from the tip of Last Point to the tip of River Mouth Point.</i></p>
OSM Conclusion	Eliminate the closure and modify regulations to allow Federally qualified subsistence users to harvest salmon with rod and reel in Federal public waters of Afognak Bay.
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	Defer
Interagency Staff Committee Comments	Defer
ADF&G Comments	Neutral
Written Public Comments	None

**FEDERAL FISHERIES CLOSURE REVIEW
FCR21-18**

Closure Location: Afognak Bay—Salmon

Current Federal Regulation

Kodiak Area—Salmon

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

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

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

Closure Dates: Year-round

Current State Regulation

Kodiak Area – Salmon

5 AAC 01.525

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

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

Current State Sport Fish Regulation

Kodiak Area—Salmon

5 AAC 64.022

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

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

(A) in fresh waters:

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

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

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

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

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

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

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

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

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

Regulatory Year Initiated: 1992

Customary and Traditional Use Determination

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

Extent of Federal Public Lands/Waters

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

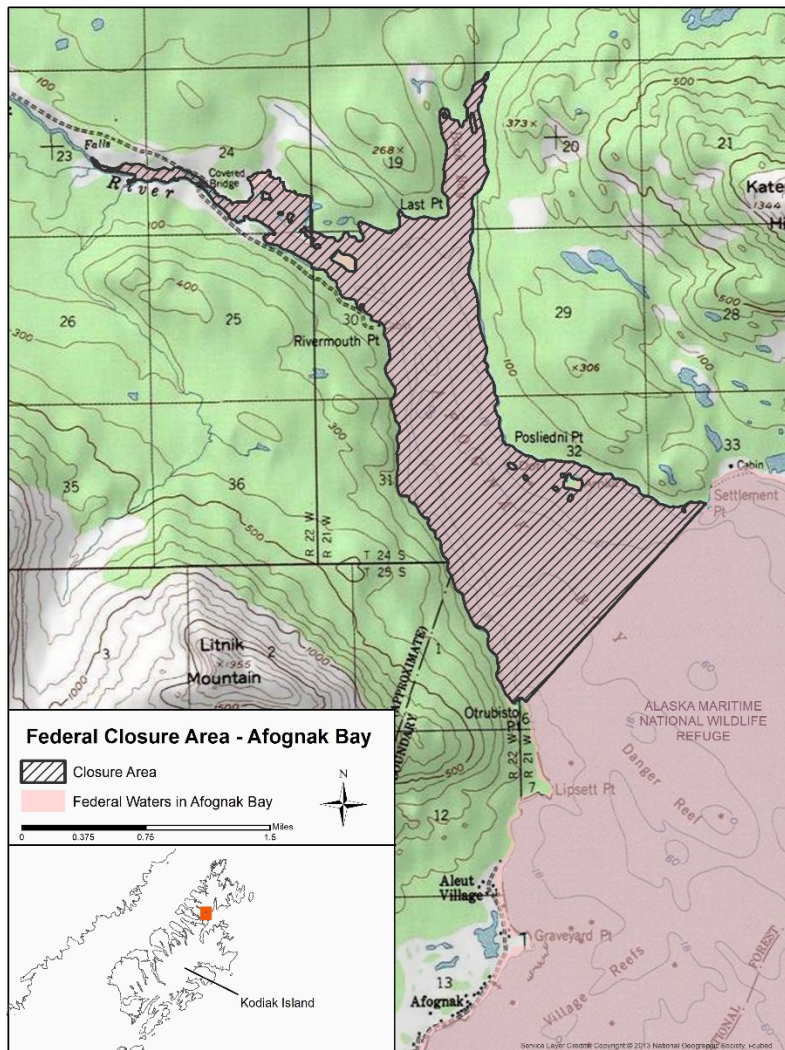


Figure 1. Afognak Bay, Afognak Island.

Regulatory History

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

Closure Last Reviewed

There have been no previous reviews of this closure.

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

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

Section §815(3) of ANILCA states: *Nothing in this title shall be construed as – (3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on public lands (other than national parks and monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816, to continue subsistence uses of such populations, or pursuant to other applicable law.*

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background and Harvest History

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

The Afognak River weir is located approximately 0.8 km above the outlet of the Afognak River and operates from mid-May to mid-August. Currently, the Afognak River has an escapement goals of 20,000-50,000 Sockeye Salmon. The Afognak River has seen relatively weak Sockeye Salmon returns in recent years (**Table 1**). Between 2010 and 2019, the annual Sockeye Salmon escapement ranged from 17,601 to 51,821 fish with a 10-year average escapement of 35,321 fish. Sockeye Salmon returns have been below average since 2016, with the lowest return of 17,601 fish occurring in 2018. Monitoring of adult Coho Salmon through the weir into Afognak Lake has been secondary to monitoring Sockeye Salmon escapement (Ruhl 2017). Because of budgetary constraints the weir is often removed before the Coho run is complete. Coho Salmon escapements estimates are often incomplete and dependent on run timing. There is no escapement goal for Coho or Pink Salmon returning to Afognak Lake.

Table. 1 Afognak (Litnik) River Escapement Count for Sockeye, Coho and Pink Salmon 2010-2020. (Fuerst 2019, ADF&G 2020).

Year	Sockeye Salmon	Coho Salmon* Pink Salmon*	Pink Salmon*
2010	51821	10288	62237
2011	48588	2700	4241
2012	41146	5701	111928
2013	40888	13090	17400
2014	35704	3224	18408
2015	36780	181	3203
2016	32459	4	
2017	21411	107	3074
2018	17601	2494	11400
2019	26817	18	460

10-year average 35322

*no average is provided for Coho Salmon or Pink Salmon because they are partial counts.

OSM PRELIMINARY CONCLUSION

- maintain status quo
- modify or eliminate the closure**

Currently, users are allowed to harvest Sockeye and Coho Salmon under State sport fish regulation in this area while harvest is prohibited by Federally qualified subsistence user. Modifying the Federal subsistence regulations to allow harvest with rod and reel would provide similar opportunity for Federally qualified subsistence users.

The modified regulation should read:

Kodiak Area–Salmon

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

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

(D) In Afognak Bay north and west of a line from the tip of Last Point to the tip of River Mouth Point. However, you may take salmon for subsistence purposes, by rod and reel only. Season dates and harvest limits will match current State sport fishing regulations.

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

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

Justification

The area in this proposal is a small portion of marine water at the mouth of the Afognak River under Federal jurisdiction. Allowing the use of rod and reel for subsistence fishing by Federally qualified subsistence users will offer subsistence opportunity while still limiting harvest. As written, harvest and possession limits would mirror those for taking fish under State sport fishing regulations. Continuing the closure for other gear types will protect salmon from over harvest as they congregate in the estuary preparing to move into the river while acclimating from the marine environment to the freshwater environment.

Literature Cited

Alaska Department of Fish and Game 2020. Fish Count Data. <https://www.adfg.alaska.gov/sf/FishCounts/>.

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Fuerst, B. A. 2019. Kodiak Management Area weir descriptions and salmon escapement report, 2018. Alaska Department of Fish and Game, Fishery Management Report No. 19-14, Anchorage.

Polum, T., M. Witteveen, and M. Stratton. 2019. Report on selected sport fisheries of the Kodiak Management Area, 2009–2018. Alaska Department of Fish and Game, Fishery Management Report No. 19-27, Anchorage.

Ruhl, D. C. 2017. Afognak Lake sockeye salmon stock monitoring, 2016. Alaska Department of Fish and Game, Fishery Data Series No. 17-15, Anchorage.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Kodiak/Aleutian Subsistence Regional Advisory Council

Defer FCR21-18. This closure was adopted from the Alaska Department of Fish and Game regulations 20 years ago. This is the initial review of this closure by Kodiak/Aleutians Subsistence Regional Advisory Council. The Council was not able to talk with the local Tribes and Advisory Committees regarding this closure and analysis prior to the Council meeting date.

The Council deferred seven Fishery Closure Reviews to the March 9-10, 2021 public meeting. In a unanimous vote, the Council stated the Fishery Closure Reviews should have public input that directly affects the communities and the Council will consider those comments at its winter meeting. The Council will address the Closure Reviews at the winter 2021 Kodiak/Aleutians Subsistence Advisory Council meeting to develop recommendations to the Board.

The Council and OSM staff are contacting the State of Alaska Local Advisory Committees and Tribes regarding the seven closure reviews for public input for the Council to consider.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Kodiak/ Aleutians Subsistence Regional Advisory Council (Council) deferred action on seven fishery closure reviews specific to their region. The Council deferred the closures because they wanted to collect additional information from local communities that could be impacted by actions taken on these closures. The Council was not confident they had sufficient input from the affected communities to make recommendations and wanted to ensure the Council made the appropriate recommendations as many closures focused on small and sensitive fisheries that have never been open to subsistence harvest. The Council is currently working with the Office of Subsistence Management (OSM) to make contacts with specific communities to gather additional feedback and plans to provide final recommendations on the deferred closure reviews during their winter Council meeting (March 2021).

The ISC believes the Federal Subsistence Board (Board) should consider deferring action on these closure reviews until the next fishery regulatory cycle. The seven closures that are up for review have been in place for 20 years and thus deferring action to the next fishery regulatory cycle would likely not have a noticeable impact to subsistence communities. Furthermore, if the Board took action on these closures during the summer 2021 Board session, any new regulations would not be effective until published in the Federal Register during the next fishery regulatory cycle.

FCR21-19 Executive Summary	
General Description	Closure Review FCR21-19 reviews the closure to the harvest of salmon by Federally qualified subsistence users in the freshwaters of Afognak Island.
Current Regulation	<p>Kodiak Area – Salmon</p> <p>50 CFR 100.27(e)(9) Kodiak Area.</p> <p><i>(iii) You may not subsistence fish for salmon in the following locations:</i></p> <p><i>(F) All fresh water systems of Afognak Island.</i></p>
OSM Conclusion	Eliminate the closure and modify regulations to allow Federally qualified subsistence users to harvest salmon with rod and reel in the Federal freshwaters of Afognak Island.
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	Defer
Interagency Staff Committee Comments	Defer
ADF&G Comments	Neutral
Written Public Comments	None

**FEDERAL FISHERIES CLOSURE REVIEW
FCR21-19**

Closure Location: Afognak Island—Salmon

Current Federal Regulation

Kodiak Area – Salmon

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

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

(F) All fresh water systems of Afognak Island.

Closure Dates: Year-round

Current State Regulation

Kodiak Area – Salmon

5 AAC 01.525

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

(8) all freshwater systems of Afognak Island;

Current State Sport Fish Regulation

Kodiak Area—Salmon

5 AAC 64.022

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

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

(A) in fresh waters:

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

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

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

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

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

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

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

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

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

Regulatory Year Initiated: 1992

Customary and Traditional Use Determination

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

Extent of Federal Public Lands/Waters

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

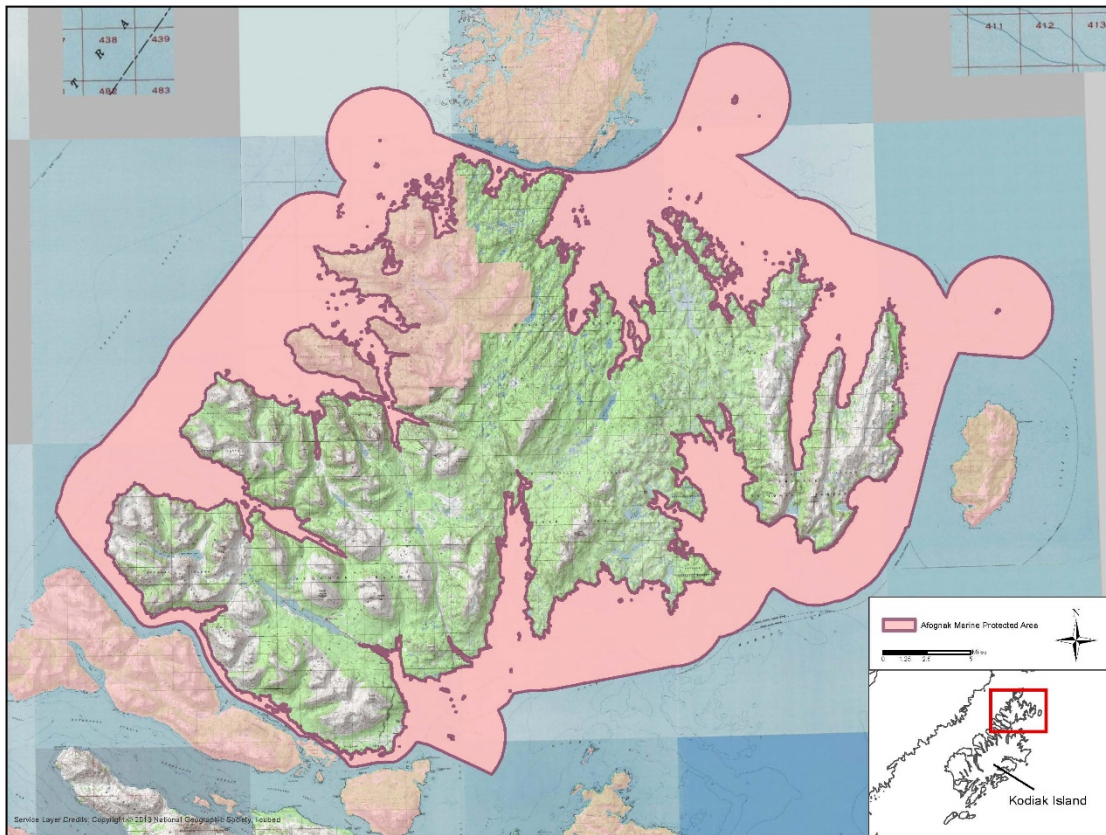


Figure 1. Afognak area map

Regulatory History

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

Closure Last Reviewed

There have been no previous reviews of this closure.

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

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

Section §815(3) of ANILCA states: *Nothing in this title shall be construed as – (3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on public lands (other than national parks and monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816, to continue subsistence uses of such populations, or pursuant to other applicable law.*

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background and Harvest History

Subsistence harvest for salmon is open throughout the year in most Federal public waters of the Kodiak management area with a subsistence fishing permit. However, the freshwater systems of Afognak Island within the Kodiak National Wildlife Refuge are closed under both Federal and State regulation to subsistence harvest because of their relatively small size and accessibility making the risk of over exploitation high (Anderson et. al. 2019). Historically, the most utilized subsistence fishery areas under Federal regulations are the marine waters in proximity to the Buskin River on the north end of Kodiak Island and the marine waters of Afognak Bay on the southeast side of Afognak Island. Both areas are part of the Alaska Maritime National Wildlife Refuge (Fall. 2020). Sockeye Salmon are the primary species harvested by Federally qualified subsistence users with a 3-year average harvest of 216 fish (**Table 1**) Coho Salmon are the second most frequently harvested fish with a 3-year average harvest of 48 fish. Fish harvested under State sport fish regulation in the Kodiak management area are estimated through the Alaska Sport Fishing Harvest Survey. Because of low response rates, there are no estimates of Sockeye or Coho Salmon harvests in the fresh water streams of Afognak Island (Dye, 2020).

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

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

OSM CONCLUSION

_maintain status quo

X modify or eliminate the closure

Currently, users are allowed to harvest Sockeye and Coho Salmon under State sport fish regulation in this area while harvest is prohibited for Federally qualified subsistence user. Modifying the Federal subsistence regulations to allow harvest with rod and reel would provide similar opportunity for Federally qualified subsistence users. In addition, information reported on the Federal subsistence permit will allow manager the ability to monitor effort.

The modified regulation should read:**Kodiak Area–Salmon****50 CFR 100.27(e)(9) Kodiak Area.**

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

*(F) All fresh water systems of Afognak Island. **However, you may take salmon for subsistence purposes, by rod and reel only. Season dates and harvest limits will match current State sport fishing regulations.***

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

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

Justification

While the majority of subsistence harvest occurs in the marine waters, opening the fresh water systems of Afognak Island within the Kodiak National Wildlife Refuge to subsistence harvest will provide additional opportunity. Allowing the use of rod and reel for subsistence fishing by Federally qualified subsistence users will offer subsistence opportunity while still limiting harvest. As written, harvest and possession limits would mirror those for taking fish under State sport fishing regulations.

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Anderson, T. J., J. Jackson, B. A. Fuerst, and A. E. Dorner. 2019. Kodiak Management Area commercial salmon fishery annual management report, 2019. Alaska Department of Fish and Game, Fishery Management Report No. 19-29, Anchorage.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Kodiak/Aleutian Subsistence Regional Advisory Council

Defer FCR21-19. This closure was adopted from the Alaska Department of Fish and Game regulations 20 years ago. This is the initial review of this closure by Kodiak/Aleutians Subsistence Regional Advisory Council. The Council was not able to talk with the local Tribes and Advisory Committees regarding this closure and analysis prior to the Council meeting date.

The Council deferred seven Fishery Closure Reviews to the March 9-10, 2021 public meeting. In a unanimous vote, the Council stated the Fishery Closure Reviews should have public input that directly affects the communities and the Council will consider those comments at its winter meeting. The Council will address the Closure Reviews at the winter 2021 Kodiak/Aleutians Subsistence Advisory Council meeting to develop recommendations to the Board.

The Council and OSM staff are contacting the State of Alaska Local Advisory Committees and Tribes regarding the seven closure reviews for public input for the Council to consider.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Kodiak/ Aleutians Subsistence Regional Advisory Council (Council) deferred action on seven fishery closure reviews specific to their region. The Council deferred the closures because they wanted to collect additional information from local communities that could be impacted by actions taken on these closures. The Council was not confident they had sufficient input from the affected communities to make recommendations and wanted to ensure the Council made the appropriate recommendations as many closures focused on small and sensitive fisheries that have never been open to subsistence harvest. The Council is currently working with the Office of Subsistence Management (OSM) to make contacts with specific communities to gather additional feedback and plans to provide final recommendations on the deferred closure reviews during their winter Council meeting (March 2021).

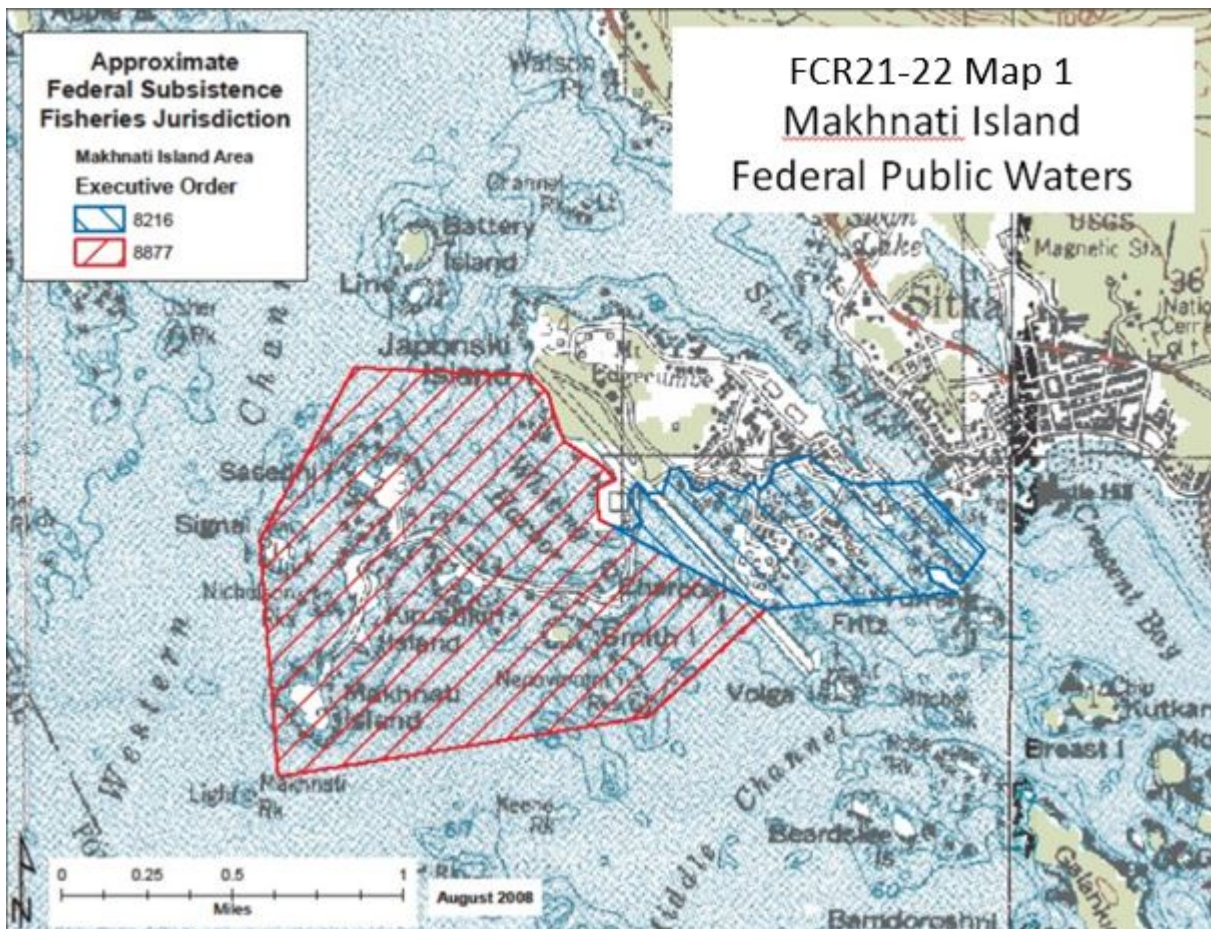
The ISC believes the Federal Subsistence Board (Board) should consider deferring action on these closure reviews until the next fishery regulatory cycle. The seven closures that are up for review have been in place for 20 years and thus deferring action to the next fishery regulatory cycle would likely not have a noticeable impact to subsistence communities. Furthermore, if the Board took action on these closures during the summer 2021 Board session, any new regulations would not be effective until published in the Federal Register during the next fishery regulatory cycle.

FCR21-22 Executive Summary	
General Description	Fisheries Closure Review FCR21-22 concerns Makhnati Island Federal public waters in Sitka Sound, which are closed to the harvest of Herring and Herring spawn except by Federally qualified subsistence users.
Current Regulation	<p>36 CFR 242 Southeastern Area</p> <p><i>§ ____.27(a)(2) You may take fish for subsistence uses at any time by any method unless you are restricted by the subsistence fishing regulations found in this section. Year-round</i></p> <p><i>§ ____.27(i)(13)(xx) The Federal public waters in the Makhnati Island area, as defined in § ____.3(b)(5) are closed to the harvest of Herring and Herring spawn except by Federally qualified subsistence users.</i></p>
OSM Conclusion	Maintain status quo
Southeast Alaska Subsistence Regional Advisory Council Recommendation	Maintain status quo
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Neutral
Written Public Comments	None

**FEDERAL FISHERIES CLOSURE REVIEW
FCR21-22**

Closure Location

Southeastern Alaska Area, District 13B, Makhnati Island Federal public waters (**Map 1**) — Pacific Herring



Map 1. Makhnati Island Federal Public Waters created by Executive Orders 8216 and 8877.

Current Federal Regulation

Under existing Federal regulations, there are no closed seasons, harvest limits or closed areas.

36 CFR 242 and 50 CFR 100

§ ___.27(a)(2) *You may take fish for subsistence uses at any time by any method unless you are restricted by the subsistence fishing regulations found in this section.*

Year-round

§ ___.27(i)(13)(xx) *The Federal public waters in the Makhnati Island area, as defined in § ___.3(b)(5) are closed to the harvest of Herring and Herring spawn except by Federally qualified subsistence users.*

Closure Dates

Year Round

Current State Regulation

5 AAC 27.150. Waters closed to Herring fishing in Southeastern Alaska Area

Herring may not be taken in

...

District 13, in the waters enclosed by a line extending from a point on the Baranof Island shore at the O'Connell Bridge at 57_ 02.87' N. lat., 135_ 20.33' W. long., to the northernmost point of Aleutski Island at 57_ 02.74' N. lat., 135_ 20.46' W. long., to the westernmost point of Makhnati Island at 57_ 02.40' N. lat., 135_ 23.48' W. long., to Bieli Rocks at 57_ 05.42' N. lat., 135_ 29.98' W. long., to the northwestern point of Crow Island at 57_ 06.96' N. lat., 135_ 28.57' W. long., to the westernmost point of Big Gavanski Island at 57_ 08.11' N. lat., 135_ 26.13' W. long., to the northernmost point of Big Gavanski Island at 57_ 08.49' N. lat., 135_ 25.21' W. long., to the Baranof Island shore at Harbor Point at 57_ 07.59' N. lat., 135_ 23.37' W. long.

Regulatory Year Initiated

2015

Customary and Traditional Use Determination

Rural residents of Southeastern and Yakutat Fishery Management Areas have a customary and traditional use determination for all fish in the Southeastern Alaska Area.

Extent of Federal Public Lands/Waters

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

The Federal subsistence program exerts jurisdiction of approximately 800 acres of marine waters near Makhnati Island as described in § __.3(b)(5) (**Map 1**). These waters are under the management authority of the Bureau of Land Management however the in-season manager is the local U.S. Forest Service, Sitka District Ranger.

Regulatory History

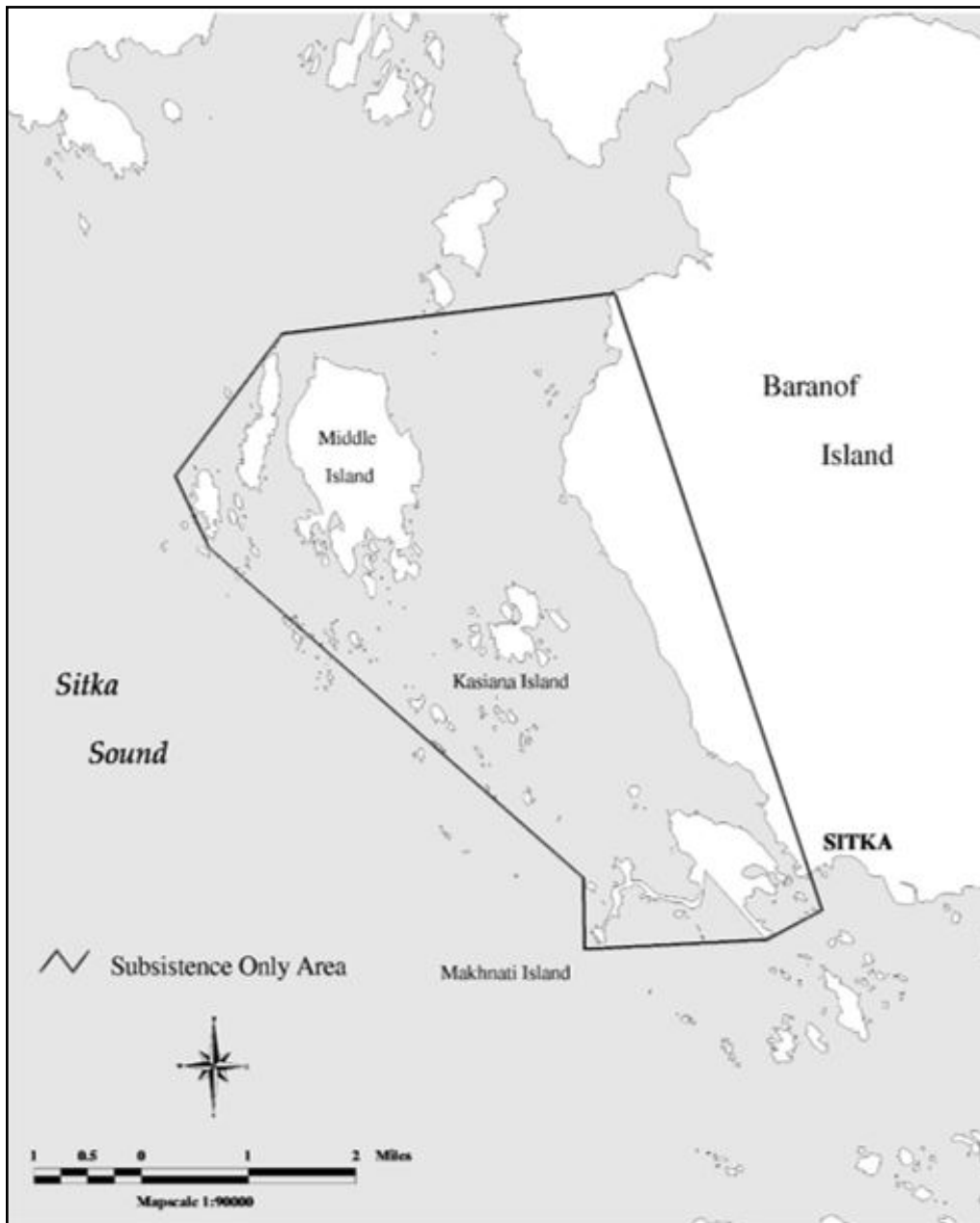
Federal regulatory history

Public testimony at Council meetings since the early 2000s has consistently indicated that the Herring needs of subsistence users were not being met. Beginning in 2007, several Makhnati Herring proposals were submitted and considered by the Board.

In January 2007, the Federal Subsistence Board (Board) considered two proposals regarding subsistence Herring egg harvest in the Makhnati Federal public waters near Sitka (FSB 2007a). Proposal FP07-18, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council) and FP07-19, submitted by the Sitka Tribe of Alaska, both sought to close the Makhnati Federal public waters to commercial Herring fishing during the months of March and April. The proponents believed the closure would be a constructive step toward ensuring adequate subsistence harvests of Herring and Herring spawn. The Board deferred action on proposal FP07-18 and took no action on FP07-19 (FSB 2007a). The Board asked the Council to form a working group to recommend criteria which would govern decisions to open or close the commercial Herring fishery in the Makhnati Federal public waters and possible alternate solutions. Although the working group did not reach consensus on all recommendations, its report was presented to the Council in September 2007. The Council accepted the report and distributed it to the public. At its September 2007 meeting, the Council developed closure language for the Makhnati Island area based on the working group report. The Council recommended the closure of Federal public waters near Makhnati Island to non-Federally qualified subsistence users when the forecast Herring biomass is less than 35,000 tons for the Sitka Sound area or when amounts necessary for subsistence (ANS), as set by the Alaska Board of Fisheries (BOF), is not met for two consecutive years (SESRAC 2007). In comparison, ADF&G's Herring management plan used a threshold level of 20,000 tons, below which no commercial sac roe harvest would occur. The Board considered the Council's recommendation during a December 2007 public meeting as part of proposal FP07-18. Following considerable oral testimony from Tribal representatives, professional managers and U.S. Forest Service staff, the Board rejected the Council's recommendation. The Board's rationale was that there was not substantial evidence of a conservation concern or a need for a closure to insure the continuance of subsistence uses (FSB 2007b).

On March 25, 2008, Special Action Request FSA07-03 was received by the Board from the Sitka Tribe of Alaska requesting that the Federal public waters in the Makhnati Island area, as defined in 36 CFR 242.3(b)(5) and 50 CFR §100.3(b)(5), be closed to the harvest of Herring and Herring spawn except for subsistence harvests by Federally qualified subsistence users from March 24, 2008 through April 30, 2008. The Board responded by letter dated April 3, 2008 informing the Sitka Tribe of Alaska that the commercial fishery was completed prior to the Board action and consequently the matter was moot.

Also on March 25, 2008, the Sitka Tribe of Alaska requested that the Secretaries of Agriculture and the Interior (Secretaries) exert their authority through extra-territorial jurisdiction to close the commercial Herring fishery in the area shown in **Map 2**. The Secretaries denied the Sitka Tribe of Alaska's request stating they can "only exercise their authority to impose Federal jurisdiction outside of Federal public land under extraordinary circumstances. The threshold for such a decision is extremely high, and is not met in this case. With such a healthy Herring biomass, there is clearly no conservation concern with regard to the Herring stocks and the associated fishery in Sitka Sound. Given the spawning characteristics of Herring, closing State marine waters as requested would not significantly increase the likelihood of Federally qualified subsistence users harvesting their desired amounts in the Makhnati Island Federal public waters."



Map 2. Area requested by the Sitka Tribe of Alaska to be open only to subsistence uses of Herring.

Proposal FP09-05, submitted by the Sitka Tribe of Alaska in 2008, requested the closure of Federal public waters in the Makhnati Island area near Sitka (**Map 1**) to the harvest of Herring and Herring spawn except for subsistence by Federally qualified subsistence users. In January of 2009 (FSB 2009) and again in January of 2011 (FSB 2011), the Board deferred proposal FP09-05 until no later than the next fisheries regulatory cycle.

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

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

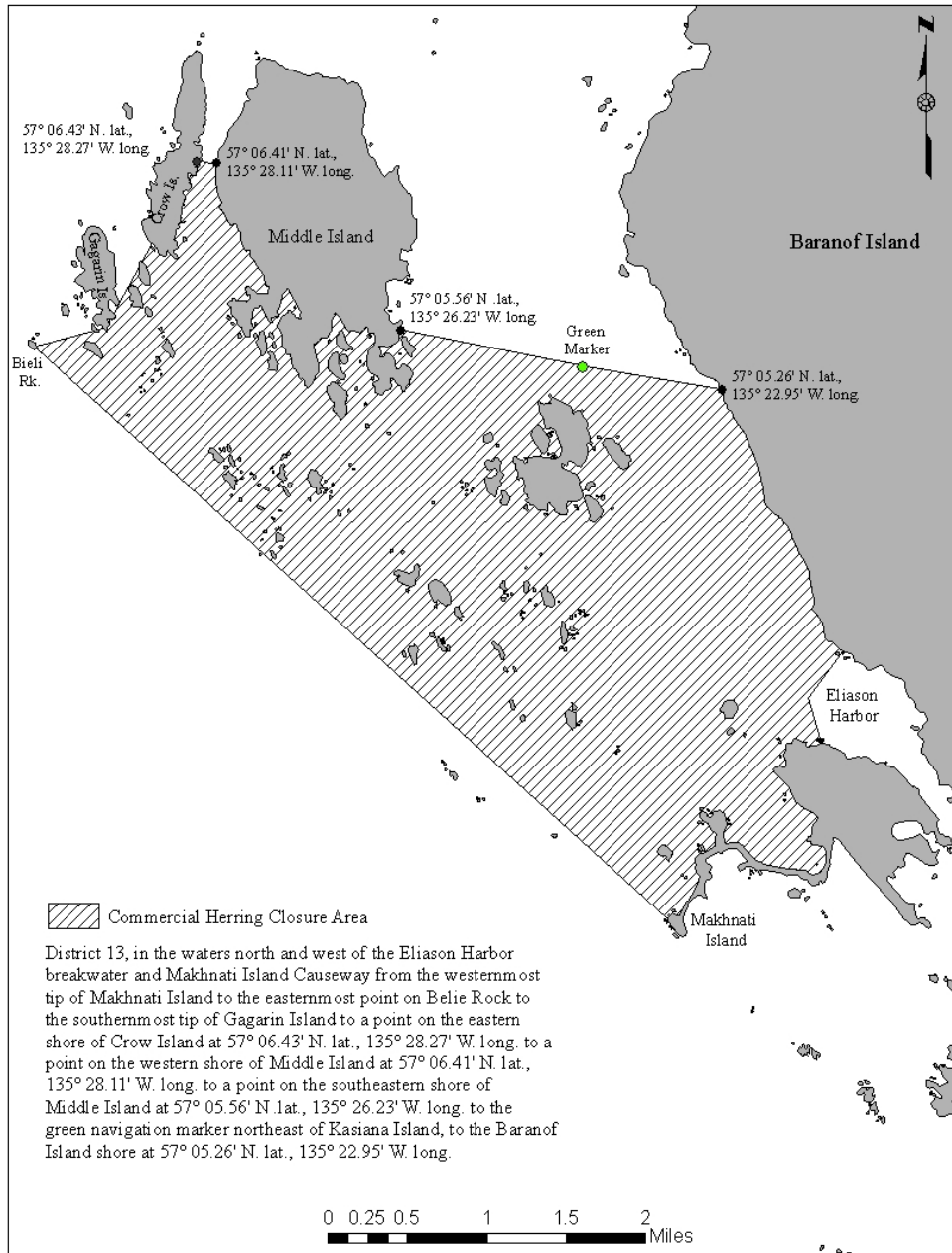
The other project, conducted by the Sitka Tribe of Alaska, was designed to determine the amount of subsistence use of Herring roe in the Federal public waters near Makhnati Island (Fisheries Resource Monitoring Program project 08-651, Makhnati Island Subsistence Herring Fishing Assessment).

In 2010, immediately prior to the Council meeting, the Sitka Tribe of Alaska submitted a letter to Federal Subsistence Board Chairman Mr. Tim Towarak dated September 21, 2010 requesting FP09-05 be deferred. The Board agreed and deferred the proposal until no later than the next fisheries regulatory cycle. The Sitka Tribe of Alaska cited three reasons for requesting the deferral.

1. The Sitka Tribe of Alaska was conducting a study, commissioned by the Bureau of Indian Affairs, of current Herring management in Sitka Sound. However, this study was not peer reviewed for publication and was not anticipated to be ready for review by the Council or by the Board before its January 2013 Board meeting (Feldpausch 2012, pers. comm.) To date, this report has not been peer reviewed.
2. The Sitka Tribe of Alaska wanted results of project 08-651 to be available to the Council and Board. According to Meuret-Woody et al. (2010), “the Makhnati area was once used by many subsistence users, but today is not used as frequently due to the development of the area and the ease of most subsistence Herring egg gatherers to harvest in other areas”.
3. The Sitka Tribe of Alaska had formed a Herring Planning Research Priority Group, and the work of that group was not anticipated to be ready for review by the Council or by the Board before its

January 2013 Board meeting (Feldpausch 2012, pers. comm.). To date, the group has not developed any products or recommendations.

In January 2013 the Board once again considered FP09-05 and rejected the proposal consistent with the recommendation of the Council. The Board’s rationale was that since the last deferment in 2011 the BOF took “significant action to reduce conflicts between the purse seine sac roe fishery and subsistence harvesting, including closing a large area important to subsistence harvesting to commercial fishing” (FSB 2013) (**Map 3**). This closed area already includes a large portion of the Makhnati Federal public waters. The Board also believed that a Federal closure would provide essentially no additional advantage for subsistence users (FSB 2013).



Map 3. January 2012 Board of Fisheries action creating a zone closed to commercial fishing for Herring in Sitka Sound that includes part of the Makhnati Federal waters (Gordon, 2014).

The Sitka Tribe of Alaska submitted FP15-17 for the 2015 regulatory cycle, requesting that the Federal public waters of Makhnati Island near Sitka be closed to the taking of Herring and Herring spawn to all but Federally qualified subsistence users. The Board adopted FP15-17 at its January 2015 meeting citing a conservation concern for Herring across the Southeast Alaska Area, and the need to continue subsistence uses of Herring and Herring spawn in the Makhnati Federal public waters (FSB 2015).

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

State regulatory history

In response to a poor subsistence Herring egg harvest in 2001, the Sitka Tribe of Alaska submitted a proposal to the BOF in 2002. The proposal requested the Herring sac roe fishery be dispersed to avoid concentrating the commercial harvest in traditional subsistence egg harvesting areas. The BOF amended the proposal by removing a suggested requirement for a subsistence permit for all subsistence harvest in favor of face to face surveys to estimate subsistence Herring egg harvest. The BOF also established the ANS for Herring roe in Sitka Sound, Section 13-A and 13-B north of the latitude of Aspid Cape at 105,000 to 158,000 pounds (5AAC 01.716(7) (b)) (Turek 2003). Regulations limit customary trade in Herring roe on kelp (5AAC 01.717 and 5 AAC 01.730 (g)). Other than spawn on kelp, there are no harvest limits for Herring or Herring spawn. According to the conditions of a Herring spawn on kelp subsistence fishing permit, the annual possession limit for Herring spawn on kelp is 32 pounds for an individual or 158 pounds for a household of two or more persons. There are no regulations regarding subsistence reporting requirements, or specific allocations for subsistence (Turek 2006).

In November of 2002 a Memorandum of Agreement was signed by the Chairman of the BOF, the Commissioner of the ADF&G and the Sitka Tribe of Alaska Chairman. The State and the Sitka Tribe of Alaska agreed to collaborate, communicate, and collect and share data (STA 2006). The Memorandum of Agreement contained provisions for in-season collaboration which included daily contact between the Sitka Tribe of Alaska and ADF&G and stipulated that the Sitka Tribe of Alaska would be consulted as to whether a proposed commercial opening might affect subsistence opportunity. If the Sitka Tribe of Alaska concluded there was a potential for the subsistence fishery to be adversely affected by a proposed opening, the Sitka Tribe of Alaska would provide this conclusion and rationale to ADF&G verbally and in writing. A formal objection to a proposed opening did not

necessarily result in a commercial closure, as ADF&G maintained discretion as to whether or not to open the commercial fishery. In June 2009 ADF&G sent a letter to Sitka Tribe of Alaska withdrawing from the Memorandum of Agreement because of the perception that the Sitka Tribe of Alaska had access to information and input into decision making that was not readily available to the general public and other user groups.

ADF&G is required to “distribute the commercial harvest by fishing time and area if the department [ADF&G] determines that is necessary to ensure that subsistence users have a reasonable opportunity to harvest the amount of Herring spawn necessary for subsistence uses” (5AAC27.195(a)(2)). Additionally, commercial Herring vessels and crew members may not take or possess Herring for subsistence 72 hours prior to or following a commercial Herring fishing period.

In February 2009 the BOF created new regulations for the Sitka Sound Herring fisheries effective beginning with the 2010 season. Descriptions of those actions follow:

1. Section 13-A south of the latitude of Point Kakul (57°21.75' N. lat) in Salisbury Sound will formally be included in the Sitka Sound sac roe seine area [5AAC 27.110(b)(1)(d)].
2. The mature biomass threshold, below which no fishery would occur in Sitka Sound, was increased from 20,000 tons to 25,000 tons. The harvest rate when the biomass is above 25,000 tons does not change from the harvest rate previously established in regulation except that the minimum harvest rate, when the forecast biomass is at 25,000 tons, will be 12% [5AAC 27.160(g)].
3. The range of the amount of Herring roe reasonably necessary for subsistence in Section 13-A and Section 13-B north of Aspid Cape was increased from 105,000–158,000 pounds to 136,000–227,000 pounds [5AAC 01.716(b)].

On February 28, 2012, the BOF passed a regulation to close an area to commercial Herring fishing in Sitka Sound [5 AAC 27.150(a)(7)] to “reduce perceived conflict between the commercial fishery and the subsistence fishery” (Thynes et al. 2013). The area is defined as north and west of the Eliason Harbor breakwater and Makhnati Island causeway from the western most tip of Makhnati Island to the eastern most point on Belie Rock to the southern-most tip of Gagarin Island to a point on the eastern shore of Crow Island at 57° 6.430' W. longitude to a point on the western shore of Middle Island at 57° 6.407' N. Latitude 135°28.105' W. longitude to a point on the southeast shore of Middle Island at 57°5.557' North latitude 135°26.227' W. Longitude to the green day marker northeast of Kasiana island, to the Baranof Island shore at 57°5.258' North latitude, 135° 22.951' West longitude (**Map 3**).

Closure last reviewed

No reviews completed.

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

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...

The Board cited a conservation concern for Herring across the Southeastern Alaska Area, and the need to continue subsistence uses of Herring and Herring spawn in the Makhnati Federal public waters as justification for adopting FP15-17 (FSB 2015).

Council Recommendation for Original Closure

Support FP15-17 **with modification** to close the Federal Public Waters of Sitka Sound to the harvest of Herring with the use of commercial Herring purse seine gear.

The modified regulation should read:

§ __.27(i)(13)(xx) The Federal public waters in the Makhnati Island area, as defined in § __.3(b)(5) are closed to the harvest of Herring with the use of commercial Herring purse seine gear.

The Council felt that the area in question is a prime spawning area and important for the subsistence harvest of Herring roe on kelp. They noted that only a very small portion of it is fishable by the commercial fleet so there should be little impact on the commercial fishery. They modified the original proposal because they did not want to exclude anyone but commercial harvesters (SEASRAC 2014; FSB 2015).

State Recommendation for Original Closure

Oppose. The State opposed this proposal because it would unnecessarily eliminate a necessary management tool and the flexibility to manage the commercial purse seine Herring fishery (FSB 2015).

Biological Background

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

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

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

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

Mortality of the eggs is high. Young larvae drift and swim with the ocean currents and are preyed upon extensively by other vertebrate and invertebrate predators. Following metamorphosis of the larvae to the juvenile form, they rear in sheltered bays and inlets and appear to remain segregated from adult populations until they are mature.

Herring are located in distinctly different environments during different periods of the year. After spawning, most adults leave inshore waters and move offshore to feed primarily on zooplankton such as copepods and other crustaceans. They are seasonal feeders and accumulate fat reserves for periods of relative inactivity. Herring schools often follow a diel vertical migration pattern, spending daylight hours near the bottom and moving upward during the evening to feed.

The annual biomass of Herring returning to spawn in Sitka Sound (commercial purse seine catch + post season model estimates) has exhibited an increasing trend over the last 40 years of commercial fishing with a decline beginning in 2012 followed by a dramatic increase in 2019 (**Figure 1**). In 2018 the total estimate of Herring biomass returning to Sitka Sound was estimated at 59,228 tons, down from a high of 119,049 tons in 2009. In 2019 the total estimate of Herring biomass returning to Sitka Sound was estimated at 130,738 tons. The 2020 pre fishery forecast was 212,330 tons. The estimated number of Herring returning to Sitka Sound in 2020 will be announced this fall.

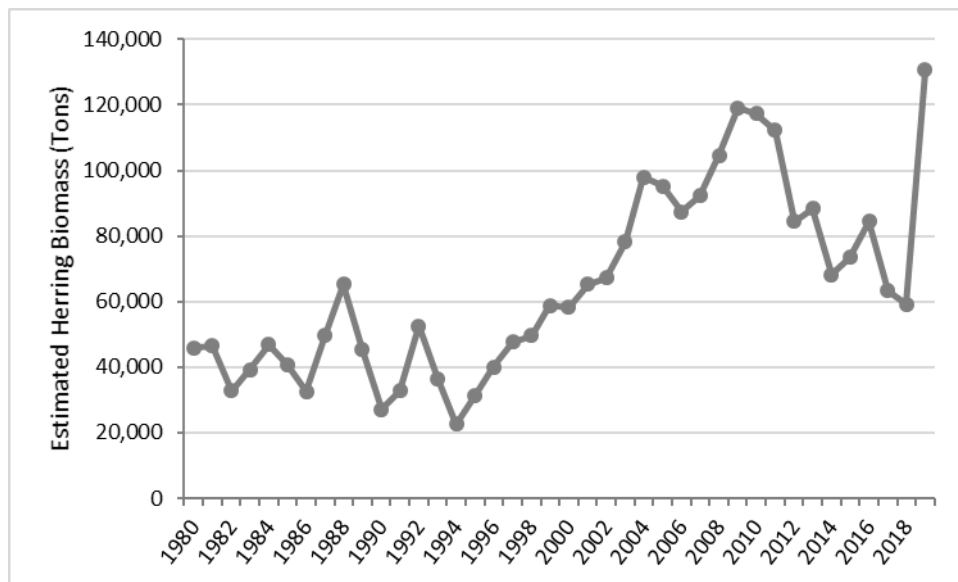


Figure 1. Annual estimated biomass of Herring returning to Sitka Sound from 1980 – 2019.

Harvest History

Subsistence harvest

The Alaska Department of Fish and Game and Sitka Tribe of Alaska began monitoring the harvest of herring spawn in Sitka Sound in 2002 (Brock and Turek 2007; Holen et al. 2011; Sill and Lemons 2012, 2014a, 2014b, 2015, 2017, 2020; and Sill and Cunningham 2017, 2019). For years when data are available (2002–2018), the average annual total harvest of eggs in Sitka Sound on all substrata is 138,382 pounds (**Table 1**). When compared to the amounts reasonably necessary for subsistence established by the BOF, estimated harvest indicates that subsistence needs were not met in 2005, 2007, 2008, 2011–2013 and 2015–2018 (Holen et al. 2011; Sill and Cunningham 2019). In 2018, the overall lack of herring spawn and the distance to where spawn could be found were the major reasons provided for why a household did not attempt to harvest (Sill and Lemons 2020). Respondents have been asked on surveys to document harvest locations during 11 years since 2006. Harvest in Mahknati Federal waters occurred a minimum 6 of 11 years and a minimum 2 to 10% of households each year.

Table 1. Subsistence harvest of Herring roe on all substrates in Sitka Sound, 2002-2018 (CI 95%) (Sill and Lemons 2020).

Year	Number of Households Attempting	Number of Households Harvesting	Total Roe Harvest (lbs)	Lower Range of Harvest Estimate (lbs)	Upper Range of Harvest Estimate (lbs)
2002	N/A	77	151,717	116,701	186,734
2003	117	116	278,799	225,704	331,895
2004	120	118	381,226	312,224	450,229
2005	111	95	79,064	72,272	85,856
2006	93	88	219,356	176,484	267,228
2007	92	81	87,211	67,702	106,720
2008	59	54	71,936	67,764	76,708
2009	91	91	213,712	193,623	233,801
2010	40	40	154,620	139,872	169,367
2011	57	53	83,443	79,719	87,166
2012	50	47	115,799	102,332	129,265
2013	52	50	78,090	70,075	86,102
2014	68	68	154,412	135,054	173,769
2015	52	51	106,998	84,664	129,333
2016	38	35	84,554	50,028	119,079
2017	53	44	65,691	49,268	82,114
2018	39	29	25,862	7,576	44,148
2019	Pending	Pending	Pending	Pending	Pending
2020	Pending	Pending	Pending	Pending	Pending
Average	71	67	138,382		

In findings of research, Shewmake (2013 *in* Sill and Lemons 2020: 22) describes influences on herring spawn harvest amounts. Research found that mean consecutive spawning days in subsistence use areas of Sitka Sound can be a reasonably good predictor of harvest success.

Successful harvests in Sitka Sound are predicated on two groups of factors broadly categorized as social opportunity and ecological opportunity. On the social side are issues like sufficient time, resources, knowledge, and skills to engage in harvesting activities. Within the ecological grouping the main factor is the quality of the eggs, which is influenced by timing, duration, location, and weather. The metric of mature biomass in any one year does not appear to have a direct correlation with harvest amounts; some years with increased biomass estimates were years with decreased harvests and vice versa. There may be finer details within the run size composition that may correlate with subsistence harvests, but such investigations are beyond the scope of this project. Good quality eggs cover the substrate several layers deep and lack impurities, such as sand. Thickness of deposition is related to the number of days of the spawning activity, as well as other factors such as the size or density of the spawning school of herring. It has been found that mean consecutive spawning days in subsistence use areas of Sitka Sound can be a reasonably good predictor of harvest success (Shewmake 2013 *in* Sill and Lemons 2020: 22).

Commercial Harvest

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

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

The Southeast Alaska Sac Roe Herring Fishery is managed by ADF&G under a management plan (Salomone et al. 2020). Although the guideline harvest level (GHL) for forecasted biomasses above 45,000 tons is 20%, the commercial fishery rarely reaches that level of harvest. The forecasted annual biomass has been greater than 45,000 tons in 22 of the last 40 years and the commercial harvest during those years averaged 13.5%.

The area where the commercial sac roe Herring fishery occurs varies widely from year to year. From 1992 to 2014, the Federal public waters near Makhnati Island have made up part of the areas open to commercial sac roe Herring fishing 8 out of 23 years (1993, 1999, 2001, 2003, 2005, 2006, 2011 and 2014). Since the area of Federal public waters has been part of larger areas open to commercial fishing, there is no way to apportion harvest from only Federal public waters. Most of the commercial harvest has been taken a significant distance away from Federal public waters and traditional subsistence harvest areas yet adequate subsistence harvests, in relation to Amounts Necessary for Subsistence set by the State, were not obtained in 2005, 2007, 2008, 2011–2013, and 2015–2018. The Makhnati

Federal waters have been closed to Herring and Herring roe harvest to all but Federally qualified subsistence users since 2015.

Cultural Knowledge and Traditional Practices

In 2008, in response to proposals to the Federal Subsistence Board, the Office of Subsistence Management funded a project with Sitka Tribe of Alaska to document contemporary use of Makhnati Federal waters. Meuret-Woody et al. (2010) relied heavily on recent research of one of its authors, Thomas Thornton (et al. 2010), who used archaeological, historical, and environmental records as well as ethnographic interviews with contemporary local experts involved with herring fisheries. Four ADF&G technical papers focus on Sitkans' harvest and use of herring for subsistence: Gmelch and Gmelch (1985), Schroeder and Kookesh (1990), Brock and Turek (2007), and Holen et al. (2011). *The Tlingit Indians* by Emmons and de Laguna (1991) describe in detail herring ecology and Native egg harvests in Sitka. Meuret-Wood et al. (2010) provide a description of use patterns, with a focus on Makhnati Federal waters.

The community of Sitka is located on the east side of Baranof Island at the mouth of the Indian River in Southeast Alaska. Present-day Sitka is located at the site of an historical Sitka Tlingit *Sheet'ka Kwaan* settlement and fish, wildlife, and plant use area. While salmon and other fish were the primary wild resources harvested for home use, herring eggs, or *yaaw*¹ in Tlingit, were an important part of the seasonal round. While there has been non-Native participation in the herring egg fishery, non-Natives are not known to harvest in quantity or to participate as major suppliers of herring eggs to non-harvesting households (Schroeder and Kookesh 1990). Additionally, almost all herring egg harvesting, receiving, and distribution has been shown to be within the Alaska Native community.

Tlingit traded among themselves and with neighboring tribes. Sheet'ka Kwaan moved large quantities of herring eggs to Yakutat in order to trade them with the Alaskan and Canadian interior regions. Herring eggs were a substantial source of Sheet'ka Kwaan wealth and prestige. While herring were eaten, their roe was considered a delicacy (Brock and Turek 2007). After 1865, the use of Native trading networks in Southeast Alaska was gradually de-emphasized in favor of goods and merchandise brought in by American traders. "Currently the bulk of traded herring roe is transported from Sitka via commercial air carriers to people in other Alaskan communities and cities in the contiguous United States" (Brock and Turek 2007:2).

Although herring eggs have been harvested for subsistence uses throughout the state in the past, Sitka Sound provides the largest and most reliable source of herring eggs in Alaska today. Harvesting occurs on a number of substrata, but primarily three: hemlock branches placed in the water and existing beds of *Macrocystis* kelp and hair kelp. Through their extensive research, Sill and Lemons provide the following concise description of the causes of differences in Sitkans' herring roe harvest locations from year to year:

¹ Transcription of Tlingit words follows the system proposed by Naish and Story as closely as possible (Davis 1976).

There is year-to-year variability in the locations used for the harvest within the broader core area [see **Map 2**]; this variability occurs for a number of reasons. Within limits, harvesters will go where the herring are spawning. Herring do not have site fidelity like salmon; therefore, the specific beaches and coves where they spawn each year can change. Harvesters look for areas they feel are most likely to produce high-quality spawn based on factors such as geography, substrate, and protection from wind and waves. Some harvesters do not have access to a boat, so they need to harvest in locations accessible by the road system, regardless of where the herring are spawning. Skiffs and other small boats are commonly used by herring harvesters and wind and rough seas can become dangerous; therefore, protected areas are sought. Protected areas are also favored for their likelihood of high-quality spawn since ocean surge can stir up sand on the seafloor, thus degrading the quality of the herring spawn harvest. As Sitka has developed, and concerns for water quality have grown, harvesters have also tried to ensure that the area they harvest from is not negatively affected by development. In 2018, the harvest suffered in part because suitable locations were unavailable for harvest; the herring did not spawn in expected locations, where they did spawn was far away, and many of the areas (Kruzof Island) were in poor locations for quality product (Sill and Lemons 2020:22).

Prior to World War II, the islands within the Makhnati Federal waters were basically undeveloped, save for fishing sites and boat haul-outs. The Causeway, connecting some of the islands, was built during WWII. After WWII, access to the islands via crossing the airport runway was restricted in the 1960s, which now restricts access to the Causeway Islands to boat only (Keres Consulting 2003, Meuret-Woody et al. 2010). The Federal waters encompassing Makhnati Island were a center for subsistence harvesting activities prior to World War II. The myriad of islands were named in Tlingit *Aanya X'aat'x'i* and are referenced in the phrase *Shee At'ika* which is the basis for Sitka's name today.

The Makhnati area has been a preferred harvesting site for several reasons. First, both hair kelp and especially *Macrocystis* kelp beds exist in the area, specifically along the northern edge of the Causeway in Whiting Harbor and along Japonski Island. Naturally occurring kelp is the preferred substrate upon which to harvest herring eggs, many fishers reported during research in the 1980s and 1990s (Schroeder and Kookesh 1990, Holen et al. 2011), as long as spawn are present. Harvesting eggs from these substrata allow fishers to make a single trip to harvest a large quantity of eggs, compared to hemlock branches which must be sunk and retrieved. Herring eggs on *Macrocystis* kelp are gathered in abundance compared to other substrata and the ability to transport and process the eggs is more of a limiting factor than regulatory limits or difficulty harvesting. However, kelp substrata are distributed unevenly in Sitka Sound, existing in only some areas. Second, kelp beds in the Causeway area lay in protected, nearshore waters. Thus, they are safer to get to and probably require less skill to harvest. *Macrocystis* kelp is harvested using similar methods as hair kelp. During large tides, it is gathered by hand or with a short rake. When the tide is higher, a long rake or a grapple is used. Finally, the Causeway can be accessed even in inclement weather that prevents harvesting from areas other than the federal waters.

According to elders interviewed in 1989, Sitka was considered the herring egg capital of the northern portion of southeast Alaska even before the colonial period began. This is because of the large abundance of herring: “Numerous informants spoke of the whole of Sitka Sound being white with spawn during their childhoods and told of unattached eggs washing up with the tide two or more feet deep on shores” (Schroeder and Kookesh 1990: 3). Additionally, the length of the spawning period, about two weeks, attracted fishers. Spawning time is unpredictable and harvesters have a better chance of getting good quality spawn in the quantity needed from the longer spawning period at Sika (Schroeder and Kookesh 1990). Meuret-Woody and others’ (2010) key respondents unanimously asserted that the herring spawn is not as dense as it was in the past, the herring spawns are shorter in duration, and the spawn has diminished from historical areas, such as southern Sitka Sound. In addition several key respondents indicated that the timing of the commercial sac roe fishery has impacted the subsistence harvest of herring eggs as the two fisheries coincided with one another in the past; however, since the mid-1990s the commercial sac roe fishery occurs before the subsistence herring egg harvest.

All key respondents interviewed by Meuret-Woody and others (2010) stated that herring spawn is not as dense as it was in the past, herring spawns are shorter in duration, spawn has diminished from historical areas, and their ability to gather herring eggs has been greatly reduced since the inception of the sac roe commercial fishery. Commercial harvest of herring began in 1882 with a herring reduction plant at Killisnoo. In the peak year of 1929, 3,120,307 gallons of herring oil and 23,872,093 lbs of herring meal were produced at reduction plants. Stock depletion resulted in fishing restrictions in 1939 (Schroeder and Kookesh 1990).

OSM CONCLUSION

maintain status quo
 modify or eliminate the closure

Justification

This closure has been in place since the 2015 fishing season. Since 2018 there was little or no commercial harvest due to lack of suitable size fish for commercial markets, even though the Sitka Sound Herring biomass has increased substantially since 2019. There is a reported decline in participation by subsistence users but the reason for that decline is poorly understood. Public testimony clearly supports the cultural importance of Herring roe harvest by Federally qualified subsistence users. The recent unusually poor performance of the commercial fishery and declining subsistence harvest support maintaining the closure until its effectiveness can be better understood. There is no evidence that this closure has had any effect on the commercial Herring fishery because the fishery either did not occur or the areas open to commercial fishing were distant from the closed area.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Maintain status quo. The Council has heard testimony for years that people are having a hard time meeting their subsistence needs for Herring and it is widely known that Herring numbers have been decimated throughout Southeast Alaska. It is recognized that the harvest of roe on kelp and branches in Sitka is culturally important and is a significant symbol of indigenous strength and wealth. The closure has been beneficial to subsistence users and the closure is still necessary to provide some protection of the resource while providing the opportunity to continue subsistence uses. The closure is consistent with explicit wording and the intent of ANILCA under which the RAC makes its recommendations. The closure is also consistent with fish and wildlife management principles and is not a detriment to other uses.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Neutral

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