



Federal Subsistence Board

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



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

FOREST SERVICE

AUGUST 7 2024

OSM.A24062

Nancy Morris Lyon, Chair
Bristol Bay Subsistence
Regional Advisory Council
c/o Office of Subsistence Management
1101 East Tudor Road, MS 121
Anchorage, Alaska 99503-6199

Dear Chair Lyon:

This letter responds to the Bristol Bay Subsistence Regional Advisory Council's (Council) Fiscal Year 2023 Annual Report. The Secretaries of the Interior and Agriculture have delegated to the Federal Subsistence Board (Board) the responsibility to respond to these reports. The Board appreciates your effort in developing the Annual Report. Annual Reports allow the Board to become aware of issues outside of the regulatory process that affect subsistence users in your region. We value this opportunity to review the issues concerning your region.

1. Concern for Chignik Drainage Sockeye Salmon and State Changes to Management Strategy

In April of 2022, the Alaska Board of Fisheries (BOF) designated the Chignik River early run Sockeye Salmon as a stock of management concern due to the early run not meeting the escapement goal for four of the past five years. Subsequently, the Alaska Department of Fish and Game (ADF&G) reviewed and updated the Chignik River Sockeye Salmon sustainable escapement goal (SEG) and combined the Black Lake (early run) and Chignik Lake (late run) goals to a single Chignik River annual escapement goal. At the BOF meeting for the Alaska Peninsula/Aleutian Islands and Chignik Areas Finfish meeting in February 2023, Proposal 105 was submitted by ADF&G that requested the BOF to consider amending the Chignik Area Salmon Management Plan to address the new Chignik River Sockeye Salmon escapement goal and remove any reference to an early or late run. ADF&G justified this requested change as they deemed it would ensure adequate Sockeye Salmon escapement to both Black Lake and Chignik Lake.

The proposal to change the management plan and ADF&G's decision to combine the two runs

was not well received by Tribes and Advisory Committees, as was documented by public testimony during the meeting. The BOF failed to adopt the modified language ADF&G requested in the management plan, but instead opted to establish Optimum Escapement Goals (OEGs) and maintain separate OEGs for the early run and late run Sockeye Salmon.

The Council wishes to bring this to the Board's attention as there is grave concern over ADF&G changing the management strategy that has worked for many decades, especially when the early run was recently listed as a stock of concern. Sockeye Salmon are an integral part that ties subsistence and commercial fisheries together and is at the center of maintaining cultural heritage and community resilience. Changing the way that runs have been managed will make it difficult to measure any success on the stock of concern.

The SEG ADF&G recommended does not consider historical methodologies that have been utilized. Since statehood, these two genetically distinct runs have been monitored and managed for by use of tagging in the 1960s at Chignik weir with color coded disks and subsequently recovered on the spawning grounds. From 1978 to 2003, various methodologies of average time of entry (TOE) and scale pattern analysis (SPA) were used to apportion the runs. These evolved into Genetic Stock Identification (GSI) estimates of run apportionment for all years from 2006 to 2017. The SEG and the proposed management plan does not address how the genetic diversity of these two runs will be maintained.

Furthermore, the SEG fails to evaluate the impact to subsistence users. The BOF has determined amount necessary for subsistence (ANS) for the early and late run independently. Subsistence users have traditionally interacted with the two runs as separate and have a historic reliance on both the early and late runs. There is concern about the pressure on the Black Lake run, which consists of the early run of Sockeye Salmon. The change in management would impact subsistence users. Historical management approaches are needed to manage these two distinct runs to protect the long-term sustainability and to provide for subsistence uses.

Response:

Thank you for bringing these Chignik salmon management concerns to our attention. The Board agrees with the Council's view that Sockeye Salmon are integral, tying subsistence and commercial fisheries together and maintaining cultural heritage and community resilience. The Board has delegated Federal in-season fisheries management for Chignik Areas to the Supervisory Fish Biologist Jon Gerken of the Southern Alaska Fish and Wildlife Conservation Office to issue emergency and temporary special actions (special actions) if 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.

It is the intent of the Board that Federal subsistence fisheries management by designated Federal officials be coordinated, prior to implementation, with the representatives from the Council, the Office of Subsistence Management (OSM), and ADF&G to the extent possible.

This coordination with the representatives from your Council will continue to inform the management actions by the Federal in-season manager. The Board recommends working with Jon Gerken at the U.S. Fish and Wildlife Service to further discuss your concerns related to State management of Chignik area Sockeye Salmon, how to preserve the genetic diversity of the Chignik Sockeye Salmon runs, and how to evaluate the impact to subsistence users of management actions to protect the long-term sustainability of and to provide for subsistence uses of salmon for people in the Chignik area communities.

Further, the Board encourages Council members to continue to participate in discussions with State entities related to proposed changes in State management for the Chignik Area through other means such as participation on the local State Advisory Committee or by attending and participating in Alaska BOF meetings. The Council may also choose to write directly to the ADF&G Commissioner to express concerns and provide recommended actions.

2. Request Solicitor's Opinion to Be Included in Staff Analysis of Proposals

The Council would like to request the addition of the solicitor's opinion in the Office of Subsistence Management (OSM) staff analysis on proposals. The Council feels like this additional step in the process will ensure that proposals submitted before the Board are being reviewed to make certain Title VIII of ANILCA is being followed before the Board takes action. Currently, the process incorporates OSM's preliminary conclusion, the Council's recommendation, and ADF&G comments. The Council would like to see a section included with the solicitor's opinion regarding if the proposed changes follow Title VIII of ANILCA. This way when the proposal is before the Board, there is a clear understanding of whether ANILCA is being followed or not. Adding this section will add in a layer of efficiency to the process and will be a benefit to the Councils, the Board, and land managers as decision makers will know if the proposal is in accordance with Title VIII of ANILCA from the start. In the recent past, the Council and residents of the region have been subjected firsthand to Federal regulations that have been enacted that affected subsistence way of life. The Council has fought to educate new land managers and decision makers on Title VIII. Having this step in the process ensures that decision makers and land managers are aware of mandates from the beginning.

Response:

ANILCA is considered throughout all stages of analyses review to ensure the requested regulatory changes adhere to and can be justified under Title VIII. A primary purpose of the OSM leadership team and the interagency staff committee review is to spot legal issues and concerns, which they do with some regularity. When that happens, the Solicitor's office is immediately contacted for input. It is therefore very rare that a concern about a proposed action's compliance with Title VIII isn't reviewed before the OSM presents the draft analysis to the Councils during their fall meetings. From start to finish, all analyses and proposed regulatory actions have benefited from consultation with the Solicitors, which is only one component of information the Board must consider before they act. Finally, the Board concurs that the

education of land managers and decision makers on the Federal subsistence priority is essential to ensuring the implementation of Title VIII.

3. Additional Tribal Seats on Federal Subsistence Board

The Council asks the Board to elevate their request of including additional Tribal seats on the Board to the (Secretaries) of the Interior and Agriculture. The Council requests this change to the makeup of the Board as it feels the addition of Tribal seats will bring impartiality/equilibrium to the Board and create equal representation of subsistence users. Local and Indigenous Knowledge provided by rural subsistence users is fundamental to the Federal Subsistence Management Program (FSMP) and is needed for the Board to make informed decisions about resource management issues across the state.

Response:

In February 2024, the Departments of the Interior and Agriculture published a proposed rule in the Federal Register to add three additional public members to the Board who will be nominated or recommended by federally recognized Tribal governments in Alaska. The three additional members must possess personal knowledge of and direct experience with subsistence uses in rural Alaska, including Alaska Native subsistence uses, and would be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture. The proposed rule also included other minor changes to the Federal Subsistence Management Program. The 60-day comment period on the proposal closed in late April. A Tribal Consultation period for input was also provided in the process, seeking input through June 20, 2024. Final rule drafting was assigned to OSM, including summarizing the submitted public comments. The Secretaries hope to have the final rule published before the end of fiscal year 2024.

4. Request to Expedite the Process on Council Appointments

The Council requests the Board elevate the Council's concern over the delayed process of appointing new and incumbent Council members and that the Secretaries expedite this process. The Council has interest from community members to serve on the Council. However, due to the prolonged process of seating new members, folks get discouraged or lose track of where their application is in the lengthy process. Subsistence users want the opportunity to serve on the Council and make a difference in their region. Rural areas are faced with many challenges and having a full and operational Council is imperative for ensuring subsistence use and access are being advocated for.

Response:

The Board shares your Council's concern about the lengthy and sometimes delayed appointment process. Currently the entire process takes sixteen months from the time when the call for applications opens in September of each year until the appointments are made in December of next year. Over the last decade, on quite a few occasions, the appointments were not made in

December and instead were anywhere from a few days to several months late, which, the Board agrees, is very discouraging to the applicants and the Councils. The Board will discuss this issue at one of its meetings and will plan to elevate these delayed appointment process concerns to the Secretaries of the Interior and Agriculture. The Board will also direct OSM to conduct an evaluation of the appointment process to find possible ways of expediting the process. The OSM organizational move into the office of the Assistant Secretary of the Interior for Policy, Management, and Budget, will potentially cut out several appointment process steps, which in turn will help to expedite the appointments.

5. Compensation for Council Members

The Council would like to bring to the Board's attention the need for compensation for Council members and request that this issue be elevated to the Secretaries. Council members receive no compensation for the time they spend attending Council meetings or for the expertise and indigenous knowledge they provide to the FSMP. Council members receive per diem for the days that they travel away from their home communities to attend meetings. But per diem is not compensation; it merely provides some reimbursement for meals while traveling. Furthermore, Council members who live within 50 miles of where the meetings take place or who must attend via teleconference do not even receive per diem due to travel policy guidelines. The cost of living in rural Alaska is very high, and the time Council members take away from their jobs and families to participate in Council meetings is a big sacrifice that often results in losses of income. Many Councils have ongoing vacancies and are struggling to recruit applicants. This is not because rural Alaskans do not care about subsistence uses or lack the desire to share their expertise; it is because many rural Alaskans cannot afford the financial consequences of donating their time to Council meetings and the Program. The Council respectfully asks that the Federal Government similarly value the expertise provided by Council members to the FSMP by paying a fair, daily rate of compensation to Council members when attending Council meetings or other meetings as Council representatives.

Response:

The Board hears your concerns and appreciates the time and effort made by the members serving on the Councils. The Board has conveyed your request to Secretary of the Interior Haaland, along with a number of other Regional Advisory Council concerns statewide, when the Board met with the Secretary in person on October 20, 2023. After the meeting with the Secretary, the Board sent a memo to the Secretary, summarizing the topics discussed at the in-person meeting on Federal Subsistence Management Program Needs (Topic 5 Encl. 1). We have not received a reply yet on Council compensation but can share that the Office of the Secretary staff have been reaching out to us with questions and is researching the laws and reviewing the Department of the Interior invitational traveler policy in relationship to the Council member travel.

Additionally, all ten Subsistence Regional Advisory Councils (Councils) discussed the topic of Council members fair time compensation at the March 6 joint session of the 2024 All-Council Meeting. Nine Councils including your Council voted to be signatories on a joint letter

regarding compensation to the Board with a request to elevate the topic to the Secretaries again. Additionally, the Southeast Alaska Council decided to write a separate letter to the Board on the same topic raising different points. On July 29, 2024, the Board elevated both letters that resulted from the All-Council meeting (Topic 5, Encl. 2).

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

Sincerely,



Anthony Christianson
Chair

Enclosures: Topic 5, Encl. 1 – Memo FSB to SOI re Program Needs with Enclosures
Topic 5, Encl. 2 – A24073 FSB Ltr to Secretaries re Council Compensation with Enclosures

cc: Bristol Bay Subsistence Regional Advisory Council
Federal Subsistence Board
Office of Subsistence Management
Interagency Staff Committee
Benjamin Mulligan, Deputy Commissioner, Alaska Department of Fish and Game
Mark Burch, Assistant Director, Division of Wildlife Conservation, Alaska Department of Fish and Game
Administrative Record