



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

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

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APR 18 2022

Anthony Christianson, Chair
Federal Subsistence Board
c/o Office of Subsistence Management
1011 E. Tudor Road, MS 121
Anchorage, Alaska 99503-6199

Dear Chairman Christianson:

The Southeast Subsistence Regional Advisory Council (Council) appreciates the opportunity to submit its FY-2021 annual report to the Federal Subsistence Board (Board) under the provisions of Section 805(a)(3)(D) of the Alaska National Interest Lands Conservation Act (ANILCA). At its public meeting held via tele-video conference on October 5-7, 2021, the Council identified concerns and recommendations for this report. The Council approved this annual report at its March 22-24, 2022 meeting. The Council wishes to share information and raise a number of concerns dealing with implementation of Title VIII of ANILCA and the continuation of subsistence uses in the Southeast Region.

1. Transboundary River Mining – Impacts to Subsistence Users

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

The Council wishes to again express its concerns for the health and protection of Transboundary River watersheds. The Mt. Polley Mine tailings dam failure was the biggest mining pollution disaster in Canada's history and has brought needed attention to the threats imposed by such mining activities. The Council continues to hear distressing information from its constituents regarding Transboundary River Mining and the impacts to the Southeast environment and the fish and wildlife resources that are

harvested by our subsistence users:

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

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

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

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

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

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

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

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

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

The Council noted the lack of traditional ecological knowledge (TEK) during the explanations of ADF&G data on certain resources during their meetings. The Council believes that many data variables that impact the subsistence resources, which rural users have relied upon for generations, are missing when Federal analyses are developed. In the Council's opinion, many OSM recommendations on the recent wildlife proposals were not consistent with local Council member observations. The Council would like to request an explanation of TEK information sources currently utilized by OSM and how TEK is currently being incorporated into OSM analyses. The Council also would like to see a mechanism developed for ensuring local knowledge is considered in OSM's recommendations. The lack of TEK in the analyses makes for unnecessary extended discussions at meetings because local users feel that OSM recommendations, based on limited data from the State, (which does not include TEK), really aren't "consistent with feet on the ground." This results in an analysis that does not provide adequate information upon which the Council feels it can make a sound recommendation.

4. Public Testimony and Public Comment Policies

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

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

5. Regulatory Analyses and Presentation Content

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

6. Mariculture Permitting – Effects on Subsistence Sensitive Areas

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

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

The remainder of this report is for informational purposes only and the Council does not require a response; however, the issues are significant and important and the Board may benefit from this knowledge.

Pursuant to Title VIII Section 805 and 50 CFR §100.11 (Subpart B of the regulations), the Council wishes to inform the Board of issues/actions by this Council that are not generally addressed by the normal regulatory process, such as:

- An evaluation of current and anticipated subsistence needs of fish and wildlife populations from the public lands within the region;

- A recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs related to public lands; and
- Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy

7. Co-management of Subsistence Resources

The Council formed an “Indigenous Co-Management” workgroup at its Winter 2021 meeting for the purpose of gathering and sharing information on Tribal organizations’ efforts to pursue indigenous management of resources in Southeast Alaska. The workgroup reports information back to the Council at its full meetings so that the Council may go on record supporting specific efforts and provide assistance as allowed and appropriate. General topics discussed this past year were:

- Vision: pursue more indigenous management of land/resources through collaborative work and address the lack of holistic thinking in past years regarding management
- Food Sovereignty: broadening the concept of “subsistence” to include food sovereignty
- Climate Change: impacts on subsistence resources
- Regulations: ANILCA left out Native empowerment; Alaska Roadless Rule should be overturned; NEPA regulations should be explored to address food sovereignty and climate crisis; laws protecting resources should be explored so that groups can work together for resource management; competing management between State and Federal agencies

This working group has appreciated the information shared by Southeast organizations such as the Indigenous Guardians Network, Central Council of Tlingit & Haida, Women’s Earth and Climate Action Network, and various Southeast Tribe members. The Council looks forward to continuing to dialog and support many of the efforts and projects reported to the working group by Native organizations, Tribal entities, and other interested parties. The Council anticipates drafting a letter of support for indigenous co-management of resources in the future and will provide a copy of that letter to the Board.

8. Support Continues for 2001 Roadless Rule

The Council has kept the Board informed of its interest and engagement regarding the Alaska Roadless Rule over the last few years. Recently, the Council was notified of a pending proposed rule to repeal the 2020 Alaska Roadless Rule and to reinstate the application of the 2001 Roadless Rule on the Tongass National Forest.

This Council submitted a public comment in support of this proposed rule in January 2022. Council members are pleased that the U.S. Forest Service proposed to repeal the 2020 Alaska Roadless Rule. This action marks a welcome change from the past few years when the Council has often agonized over the conservation and protection of subsistence fish and wildlife resources and efforts to support the continued use of subsistence resources by Federally qualified subsistence users on the Tongass National Forest.

Without a doubt, the Council whole-heartedly supports repealing the 2020 Alaska Roadless Rule and subsequent reinstatement of the protections originally provided by the 2001 Roadless Rule.

9. Status of Fish and Wildlife Resources in Southeast

Pursuant to ANILCA Title VIII Section 805, this Council recognizes the importance of providing the Board with regional information so that it can make informed regulatory decisions. This Council hereby continues to routinely report on the status of fish and wildlife populations and the harvests within the region by enclosing the reported harvest of subsistence resources in Southeast Alaska. Please see enclosed population and harvest information on fish and wildlife resources.

The Southeast Subsistence Regional Advisory Council appreciates the Board's attention to these matters and the opportunity to assist the Federal Subsistence Management Program in meeting its charge of protecting subsistence resources and uses of these resources on Federal public lands and waters. The Council looks forward to continuing discussions about the issues and concerns of subsistence users in the Southeast Alaska Region. If you have any questions regarding this report, please contact me via DeAnna Perry, Subsistence Council Coordinator, USDA – Forest Service, at deanna.perry@usda.gov, or 1-800-478-1456 or 907-209-7817.

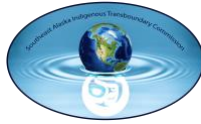
Sincerely,



Don Hernandez
Chair

Enclosures: Southeast Alaska Indigenous Transboundary Commission pending resolution
Southeast Fish Harvest Report
Southeast Wildlife Harvest Report

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



**A RESOLUTION OF SUPPORT
FOR A PERMANENT BAN ON TAILINGS DAMS AND FOR A TEMPORARY HALT TO THE
PERMITTING, EXPLORATION, DEVELOPMENT, AND EXPANSION OF CANADIAN MINES
ALONG ALASKA-BRITISH COLUMBIA TRANSBOUNDARY SALMON RIVERS
UNTIL THE UNITED STATES-CANADA BOUNDARY WATERS TREATY OF 1909 AND
THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ARE UPHELD AND AN
INTERNATIONAL AGREEMENT ON WATERSHED PROTECTIONS IS IMPLEMENTED**

WHEREAS, the Boundary Waters Treaty of 1909 was signed to prevent and resolve disputes over the use of shared waters between the United States (U.S.) and Canada, declaring in Article IV that, "it is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other;" and

WHEREAS, the Alaska-British Columbia (B.C.) Memorandum of Understanding and associated Statement of Cooperation on Protection of Transboundary Waters signed by the State of Alaska and the Province of B.C. in 2015 are important, but cannot provide binding, enforceable protections for the residents, rivers, and watersheds of the Alaska-B.C. transboundary region; and

WHEREAS, inadequately regulated Canadian hard rock mines in Northwest B.C., most of which are large-scale and open-pit, are occurring in known acid-generating ore bodies near the transboundary Taku, Stikine, and Unuk Rivers shared with Southeast Alaska, producing massive tailings dams that have to store toxic waste forever, expansive waste rock storage facilities, the need for perpetual water treatment, roads, and other infrastructure, as well as threatening (both in the short term and on geological timescales) the productivity and ecological health of these watersheds through cumulative impacts, contamination, habitat destruction, and/or possible catastrophic failures; and

WHEREAS, the Taku, Stikine, and Unuk Rivers are of tremendous and unique cultural, ecological, subsistence, economic, and recreational value as Indigenous people from several Nations have stewarded the Alaska-B.C. transboundary region since time immemorial and this region is now home to nearly 80,000 people in dozens of communities; and

WHEREAS, the Southeast Alaska Indigenous Transboundary Commission - a consortium of fifteen federally recognized Tribes in Southeast Alaska - in 2018 submitted a petition to the Inter-American Commission on Human Rights, asserting that Canada has violated their human rights by failing to prevent foreseeable harms from hard rock mines in B.C., and on March 31, 2021 sent a request to B.C. Premier Horgan for a pause in the permitting of B.C. mining projects in Alaska-B.C. transboundary watersheds until an agreement is made regarding Alaska Tribal participation in ongoing permit decisions pursuant to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); and

WHEREAS, the clean water and intact habitat of Alaska-B.C. transboundary watersheds are historically some of the most productive wild salmon rivers on the entire west coast of North America, with the Taku, Stikine, and Unuk Rivers alone contributing nearly \$50 million in economic activity, \$34 million in direct spending, over 400 jobs and almost \$20 million in labor income towards Southeast Alaska's annual multi-billion dollar fishing and visitor industries; and

WHEREAS, the leaching of heavy metals to groundwater and sediment from mining can contaminate freshwater systems for decades, preventing recovery of fish populations many



years after the cessation of mining activity and posing a risk to human health, and B.C.'s Tulsequah Chief mine in the Taku River watershed has been abandoned and leaching acid mine drainage since 1957; and

WHEREAS, B.C.'s environmental assessment process does not set legal requirements or standards for assessing cumulative effects of existing and proposed development, and B.C.'s open-pit Red Chris mine has been operating at the headwaters of the Stikine River since 2015, the entire riparian corridor of the Iskut River, the largest tributary of the Stikine River, is staked with B.C. mineral claims, B.C.'s Kerr-Sulphurets-Mitchell project (KSM), if built as proposed in the Unuk-Nass River watersheds, would be the largest open-pit mine in Canada and one of the largest in the world, and more than half of the B.C. portion of the Unuk watershed is staked with mineral claims; and

WHEREAS, the Taku, Stikine, and Unuk Rivers are experiencing a decline in wild salmon populations, resulting in the Alaska Department of Fish and Game listing Chinook salmon in the Unuk River as a Stock of Concern in 2017 and will soon list Chinook salmon in the Taku and Stikine Rivers as Stocks of Concern; and

WHEREAS, on June 30, 2021, Canada's Department of Fisheries and Oceans eliminated 60% of its commercial salmon fleet in B.C. due to poor returns and declining populations - some near 90% declines - resulting in the largest set of commercial salmon fishery closures in B.C. history, while simultaneously B.C. continues to permit industrialization of the headwaters (spawning and rearing grounds) of some of its largest salmon producing systems; and

WHEREAS, the risk of natural forces such as extreme precipitation events and landslides, which are becoming more common due to climate change, add further instability to the mining infrastructure and could trigger catastrophic failure of the tailings waste dams and thereby release contaminants into the Taku, Stikine, and Unuk waterbodies and are inadequately addressed in B.C. mine operations designs; and

WHEREAS, following B.C.'s Mount Polley mine disaster in 2014 an expert panel appointed by the B.C. government found that if mining companies continue their business-as-usual operations the province could face an average of two dam failures every ten years and the same expert panel reported there are 123 active tailings dams in B.C.; and

WHEREAS, the Auditor General of B.C., in her report issued on May 3, 2016, found that the B.C. Ministry of Energy and Mines and Ministry of the Environment's "compliance and enforcement activities of the mining sector are inadequate to protect the province from significant environmental risks", and according to a 2017 report by the United Nations Environment Programme, Canada has the world's second-worst record for mine tailings spills after China, with seven incidents reported in the previous decade; and

WHEREAS, the June 2021 *Audit of Code Requirements for Tailings Storage Facilities* by B.C.'s Mine Audits and Effectiveness Unit, has found provincial mining code changes developed after the Mount Polley disaster lack the definition needed to ensure compliance, verification and enforcement--which means communities and the environment across the province lack full protection against the potentially catastrophic consequences of tailings dam failures that B.C.'s new mining code was meant to provide; and

WHEREAS, B.C. touts itself to U.S. officials and potential investors as a world-class marketplace for responsibly-sourced metals and a mining jurisdiction with highly positive ESG (Environment, Social, Governance) outcomes and yet, B.C. is supporting widespread exploration and the



permitting of open pits and tailings dams at mine sites across B.C. just upriver from four U.S. border states (AK, WA, ID, MT) and at the headwaters of some of North America's last remaining productive wild salmon rivers, without the consultation and consent of local Tribes and communities downstream; and

WHEREAS, Native Tribes in Alaska, First Nations in B.C., commercial fishermen, local communities, conservation groups, thousands of concerned citizens, and local, state, provincial, and federal lawmakers (including all eight Senators from the four border states) on both sides of the U.S.-Canada border have raised concerns since 1998 about B.C. mining development potentially causing significant harm to water quality, fish and wildlife, cultural practices, and local economies in Alaska-B.C. transboundary watersheds and still do not have a meaningful say in the shared management of our shared rivers; and

WHEREAS, the below signed agree to share information and seek all opportunities for collaboration to address these issues, promote methods to protect these vital rivers from harm, and seek to facilitate and promote meaningful dialogue and engagement at the local, state, federal, provincial, and Tribal levels to assure protection of resources on both sides of the border.

We, the undersigned business owners, organizations, and community members, seek a thriving Salmon Coast (AK-B.C. transboundary region) fed by intact ecosystems, healthy salmon populations and landscapes, robust traditional lifestyles, and sustainable economies.

Therefore, BE IT RESOLVED that we call upon President Joe Biden and the United States government and Prime Minister Justin Trudeau and the Canadian government to *immediately*:

1. **Utilize** their authority under the United States-Canada Boundary Waters Treaty of 1909 to prevent and resolve disputes over the use of shared waters; and
2. **Support** an immediate temporary halt to permitting, exploration, development, and expansion of Canadian mines along shared Alaska-B.C. salmon rivers until a binding international agreement on watershed protections, developed by *all* jurisdictions in these shared transboundary watersheds and consistent with the Boundary Waters Treaty of 1909 and the United Nations Declaration on the Rights of Indigenous Peoples, is implemented; and
3. **Convene** with local communities, stakeholders, and Indigenous leaders of the Taku, Stikine, and Unuk watersheds to develop the aforementioned binding international agreement on watershed protections. This agreement will identify and honor no-go zones and decisions by local residents and Indigenous people on both sides of the international border, ensure mining companies and shareholders are liable for cleaning up their waste and compensating impacted communities for all damages, and enforce requirements for mining best practices, including a permanent ban on the perpetual storage of contaminated water and wet tailings behind earthen dams along these irreplaceable Alaska-B.C. transboundary salmon rivers.