FEDERAL SUBSISTENCE BOARD

Public Meeting Materials

January 10 - 12, 2017
Anchorage, Alaska

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On the cover...

Fish wheel pulled onto the bank of the Yukon River in Fort Yukon.

Jarred Stone, OSM, USFWS

FEDERAL SUBSISTENCE BOARD
PUBLIC MEETING AGENDA
January 10-12, 2017

January 10, 2017: 1:30pm to 5:00pm
January 11-12, 2017: 8:30am to 5:00pm Daily
Egan Center, 555 West 5th Avenue
Anchorage, Alaska

***Asterisks denotes Action Items**

On January 10th, prior to start of the Public Meeting, the Federal Subsistence Board will meet at 8:30am to conduct Tribal Government-to-Government and ANCSA Corporation consultations regarding proposals to change the Federal Subsistence Regulations. The Public Meeting will begin at 1:30pm.

PUBLIC MEETING

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. **Partners Program Presentation**
7. **ANSEP Presentation**
8. **RFR15-01 Kenai Community Gillnet***
9. **2016–2018 Subparts C&D Proposals** (*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*

10. Draft Policy on Nonrural Determinations*

11. Wildlife Special Action WSA16-03*

12. Update on the Memorandum of Understanding with the State

13. Schedule of Upcoming Board meetings*

a. 2017 Summer Work session (Council annual report replies and nominations)

b. 2018 Spring Regulatory meeting (Wildlife Regulations)

14. Other Business

15. Adjourn

Note: *The meeting will be held daily from 8:30 a.m. to 5:00 p.m. or until the Board calls a recess for the day, or completes its work. To participate in this meeting by teleconference, dial TOLL FREE (888)455-5897, the passcode is 3344290. Updates on the Board's progress through the agenda can be obtained by calling 1-800-478-1456, or in Anchorage at 786-3888.*

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/District/Species**	**Recommendation**	**Page**
FP17-03: Request to allow subsistence drift gillnet fishing for Chum Salmon	Yukon-Kuskokwim Delta, Western Interior, Seward Peninsula, Eastern Interior/Subdistrict 4A/Chum Salmon	Support with modification	6
FP17-11: Request to add the residents of Dry Creek to the customary and traditional use determination for salmon	Southcentral, Eastern Interior/Glennallen subdistrict of the Upper Copper River District/salmon	Support	26
FP17-13: Request to clarify regulation that prohibits the use of nets on the road systems associated with the communities of Wrangell, Petersburg, and Sitka	Southeast/salmon	Support with Council modification	43
FP17-14: Request to add a sling bow with a barbed fishing arrow attached by a line as a method to take Pink Salmon	Southeast/Pink Salmon	Oppose	53

FEDERAL SUBSISTENCE BOARD

NON-CONSENSUS AGENDA PROPOSALS

Procedure for considering proposals:

Analysis (Lead author)
Summary of written public comments (Regional Council Coordinator)
Open floor to public testimony
Regional Council recommendation (Council Chair or designee)
Tribal and ANCSA Corporation comments (OSM Native Liaison)
Alaska Department of Fish and Game comments
Interagency Staff Committee comments (ISC Chair)
Board discussion with Council Chairs and State Liaison
Federal Subsistence Board action

Proposal	Region/Unit/ Species	Page
FP17-01: New regulation to allow for harvest of salmon during Federally recognized fisheries closures	Eastern Interior, Yukon-Kuskokwim Delta, Western Interior, Seward Peninsula/Subdistrict 5D/salmon	61
FP17-02: New regulation to allow for harvest of early-run Chinook Salmon until arrival of the first pulse of Chinook Salmon	Eastern Interior, Yukon-Kuskokwim Delta, Western Interior, Seward Peninsula/Subdistrict 5D/Chinook Salmon	85
FP17-04: Requests increased gillnet obstruction of Racetrack Slough of the Koyukuk River and sloughs of the Huslia River drainage	Eastern Interior, Yukon-Kuskokwim Delta, Western Interior, Seward Peninsula, North Slope/Northern Pike	108
FP17-05: Requests that Federal subsistence management plans, strategies, fishing schedules, openings, closings, and fishing methods for the Kuskokwim Area be issued by the Federal Subsistence Management Program	Yukon-Kuskokwim Delta, Western Interior	123
FP17-09: Requests removal of experimental title, expansion of seasonal dates, and numerous other changes to the regulations for the Kasilof River experimental community gillnet fishery	Southcentral/Kasilof River/salmon	143

Proposal	Region/Unit/ Species	Page
FP17-06/07: Requests to eliminate gillnets as a method for harvest in the waters under Federal subsistence jurisdiction of the Kenai River	Southcentral/Kenai River	204
FP17-08: Requests changes to two sections of regulations for the Kenai River that would close a portion of the Federal public waters to Chinook Salmon fishing, extend conservation size regulations in another area of the drainage, remove distinction between early- and late-run, modify seasonal and daily harvest and possession limits, and specify that harvest from the Kasilof River experimental community gillnet will be included in each household's limits for the Kenai River dip net/rod and reel fishery	Southcentral/Kenai River and Kasilof River/Chinook Salmon	330
FP17-10: Requests the expansion of seasonal dates and numerous other changes to the regulations for the Kenai River community gillnet fishery	Southcentral/Kenai River/salmon	411

FP17-03 Executive Summary	
General Description	Proposal FP17-03 requests to allow subsistence drift gillnet fishing for Chum Salmon in the lower portion of the Yukon River Subdistrict 4A annually between Jun. 10 and Aug. 2. *Submitted by: Western Interior Alaska Subsistence Regional Advisory Council.*
Proposed Regulation	*50CFR§100.27 Subsistence Taking of Fish* *(e)(3) Yukon-Northern Area* *(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:* *(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2.* *(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14,* ***unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets.***
OSM Conclusion	**Support with modification** to include the proposed changes to the upper section of Yukon River Subdistrict 4A. The modified regulation should read: *50CFR§100.27 Subsistence Taking of Fish* *(e)(3) Yukon-Northern Area* *(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:* *(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2;*

	unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets. *(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14,* ***unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets.***
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Support as modified by OSM.**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support as modified by OSM**.
Seward Peninsula Subsistence Regional Advisory Council Recommendation	**Support as modified by OSM**.
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support as modified by OSM.**
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 as modified by OSM.**
Written Public Comments	None

STAFF ANALYSIS
FP17-03

ISSUE

Proposal FP17-03, submitted by the Western Interior Alaska Subsistence Regional Advisory Council, seeks to allow subsistence drift gillnet fishing for Chum Salmon in the lower portion of the Yukon River Subdistrict 4A annually between June 10 and August 2.

DISCUSSION

The proponent's intent is to amend the current Federal regulations to match that of the State regulations for Subdistrict 4A downstream of the mouth of Stink Creek. The proposed change would make State and Federal regulations consistent by allowing Federally qualified subsistence users to have the same subsistence opportunities for targeting summer Chum Salmon with drift gillnets during times of Chinook Salmon conservation. The Federal in-season manager can already modify gear, time, and area, while the State manager has authority over time and area, but not gear.

Existing Federal Regulation

Yukon-Northern Area—Salmon

50CFR§100.27 Subsistence Taking of Fish

(e)(3) Yukon-Northern Area

(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),unless superseded by a Federal Special Action.

(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:

(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2.

(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14;

Proposed Federal Regulation

Yukon-Northern Area—Salmon

50CFR§100.27 Subsistence Taking of Fish

(e)(3) Yukon-Northern Area

(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),unless superseded by a Federal Special Action.

(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:

(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2.

(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, ***unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets.***

Existing State Regulation

Yukon Area—Subsistence Finfish Fishery

Chapter 01. Subsistence Finfish Fishery.

Article 4. Yukon Area.

5 AAC 01.220. Lawful gear and gear specifications

(a) Salmon may be taken only by gillnet, beach seine, a hook and line attached to a rod or pole, handline, or fish wheel, subject to the restrictions set out in this section, 5 AAC 01.210, and 5 AAC 01.225–5 AAC 01.249.

(e) In Districts 4, 5, and 6, salmon may not be taken for subsistence purposes by drift gillnets, except as follows:

(1) In Subdistrict 4A upstream from the mouth of Stink Creek,

(A) king salmon may be taken by drift gillnets from June 10 through July 14, unless closed by emergency order;

(B) from June 10 through August 2, the commissioner may open, by emergency order, fishing periods during which chum salmon may be taken by drift gillnets; and

(C) chum salmon may be taken by drift gillnets after August 2

(2) In Subdistrict 4A downstream from the mouth of Stink Creek

(A) king salmon may be taken by drift gillnets from June 10 through July 14, unless closed by emergency order;

(B) from June 10 through August 2, the commissioner may open, by emergency order, fishing periods during which chum salmon may be taken by drift gillnets;

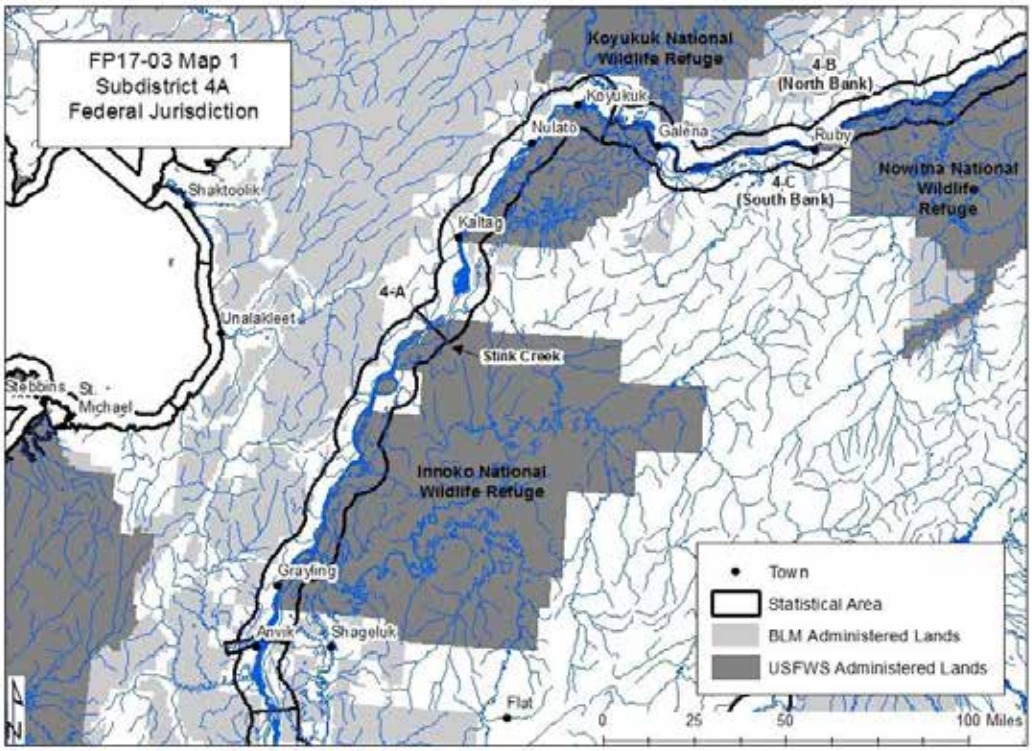
(3) A person may not operate a drift gillnet that is more than 150 feet in length during the seasons described in (1) and (2) of this subsection.

Extent of Federal Public 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 public waters addressed by this proposal are those portions of the Yukon River located adjacent to Innoko National Wildlife Refuge in District 4, specifically State of Alaska Subdistrict 4A.

Per 5 AAC 05.200, Subdistrict 4A consists of that portion of the Yukon River drainage from an ADF&G regulatory marker at the mouth of an unnamed slough three-fourths of a mile downstream from Old Paradise Village upstream to the tip of Cone Point (**Map 1**).

Communities located in the lower section of Subdistrict 4A include Anvik and Grayling; while the upstream communities include Kaltag, Nulato, Koyukuk, and Galena.



Customary and Traditional Use Determinations

Residents of the Yukon River drainage have a customary and traditional use determination for all salmon in Subdistrict 4A of the Yukon River drainage.

Regulatory History

<u>State of Alaska Regulatory History</u>

Historically, Subdistrict 4A has had relatively minor State subsistence regulation changes compared to other subdistricts in the surrounding area. Outlined below is a brief summary of State regulatory changes and thoughts pertaining to the use of drift gillnets in Subdistrict 4A.

In December 1976, the Alaska Board of Fisheries prohibited the use of drift gillnets for subsistence Chinook Salmon fishing in the middle and upper Yukon Areas (Districts 4-6). The Alaska Board of Fisheries discussions at that time indicated that the possible increase in the use of drift gillnets could seriously impact both the conservation and allocation of middle and upper Yukon River salmon stocks, which were being harvested at maximum levels (ADF&G 2001). Subsistence users were allowed to continue using drift gillnets throughout the Yukon River drainage until the 1977 season.

In 1981, drift gillnets were again allowed for subsistence Chinook Salmon harvest in Subdistrict 4A upstream from the mouth of Stink Creek.

In 1994, the Alaska Board of Fisheries questioned the need for drift gillnets to provide for adequate subsistence opportunity. State staff comments suggested that at that time it did not appear necessary (ADF&G 2001). The Alaska Board of Fisheries stated that the Alaska Department of Fish and Game could allow increased time for subsistence fishing with other gear types by Emergency Order, as an alternative, if subsistence needs were not being met. No Alaska Board of Fisheries action was taken.

During the 1995 season, the remainder of Subdistrict 4A, below Stink Creek, was reopened to the use of drift gillnets for subsistence Chinook Salmon harvest.

In March 2015, the Alaska Board of Fisheries adopted a new regulation that allowed the use of drift gillnets to harvest summer Chum Salmon for subsistence purposes during times of Chinook conservation from June 10 through August 2, by emergency order, in the upper portion of Subdistrict 4A [5 AAC 0l.220(e)(1)].

In January 2016, the Alaska Board of Fisheries adopted the same regulations [5 AAC 0l.220 (e) (2)] in the lower portion of the Subdistrict 4A.

Federal Regulatory History

Federal regulatory history in Subdistrict 4A is limited and, until recently, has mirrored State regulatory changes in the area.

Since October 1999, Federal subsistence management regulations for the Yukon-Northern Area stipulated that, unless otherwise restricted, rural residents may take salmon in the Yukon-Northern Area at any time by gillnet, beach seine, fish wheel, or rod and reel unless exceptions are noted.

In 2002, the Federal Subsistence Board delegated some of its authority to manage Yukon River drainage subsistence salmon fisheries to the Branch Chief for Subsistence Fisheries, U.S. Fish and Wildlife Service, in Fairbanks, Alaska. The Federal Subsistence Board's delegation allows the Federal manager to open or close Federal subsistence fishing periods or areas provided under codified regulations, and to specify methods and means.

Currently, Federal regulations in both the upper and lower portions of Subdistrict 4A are not consistent with State regulations adopted by the Alaska Board of Fisheries in March 2015 and January 2016. This proposal seeks to alleviate this difference for the downstream section of Subdistrict 4A.

Biological Background

Chinook Salmon

Recent analyses indicate that Yukon River Chinook Salmon stocks appear to be in the 8th year of a multi-year period of low productivity. Historically, the stocks show periods of above-average abundance (1982-

1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013).

The 2014 run was expected to be the smallest on record, with a projected size of 64,000-121,000 fish. Despite initial concerns, the cumulative passage estimate at the mainstem Yukon River sonar project in Pilot Station was approximately 138,000±17,000 (90% CI) fish (**Figure 1**). The passage estimate was still below the historical average of 143,000 fish and below the average of 195,800 fish for years with early run timing. Even with below average run sizes, all escapement goals that could be assessed were achieved (JTC 2015).

The 2015 projected run size was 118,000-140,000 fish, which was once again below average but higher than the previous year's projection. Cumulative passage estimates at the sonar station in Pilot Station were approximately 116,000±30,000 fish (90% CI) (**Figure 1**). As with the previous year, this number was still below the historical average. All escapement goals were again met (JTC 2016).

The 2016 run outlook is a below-average run of 130,000–176,000 fish (**Figure 1**) (JTC 2016). As of July 17, the cumulative Chinook Salmon passage at the sonar project near Pilot Station was approximately 175,000 fish. Preliminary run timing dates suggest the 2016 Chinook salmon run was up to four days earlier than the historical average run timing (ADFG News Release).

<u>Summer Chum Salmon</u>

Summer Chum Salmon runs in the Yukon River have provided a harvestable surplus in each of the last 13 years, 2003-2015. In 2014, the projected outlooks were for a run size of approximately 1.3-1.5 million fish, while the 2015 projection was approximately 1.8-2.4 million fish.

In 2014, approximately 1.9 million ±100,000 (90% CI) fish passed the Yukon River sonar project at Pilot Station, which was identical to the historical median for the project. In 2015, the passage estimate at Pilot Station dropped slightly to 1.4 million ±100,000 (90% CI) (**Figure 2**). Most tributaries experienced average to above-average escapement in 2015, with the exception of the Anvik and Salcha rivers, which had below-average escapements (JTC 2015, JTC 2016). The 2016 projections are slightly lower than the 2015 total run size estimate of 1.8 million summer Chum Salmon. The 2016 run is anticipated to provide for escapements, normal subsistence harvest, and a surplus for commercial harvest (JTC 2015, JTC 2016). As of July 17, the cumulative summer Chum Salmon passage at the sonar project near Pilot Station is approximately 1,900,000 fish, which is above the historical cumulative median of 1,700,000 fish for this data. The escapement goal of at least 40,000 summer Chum Salmon at the East Fork Andreafsky River weir was achieved on July 10. Summer Chum Salmon passage estimates at the Gisasa and Henshaw creek weirs are well above average for this date; however summer Chum Salmon passage at the Anvik sonar project is below average for this date (ADFG News Release).

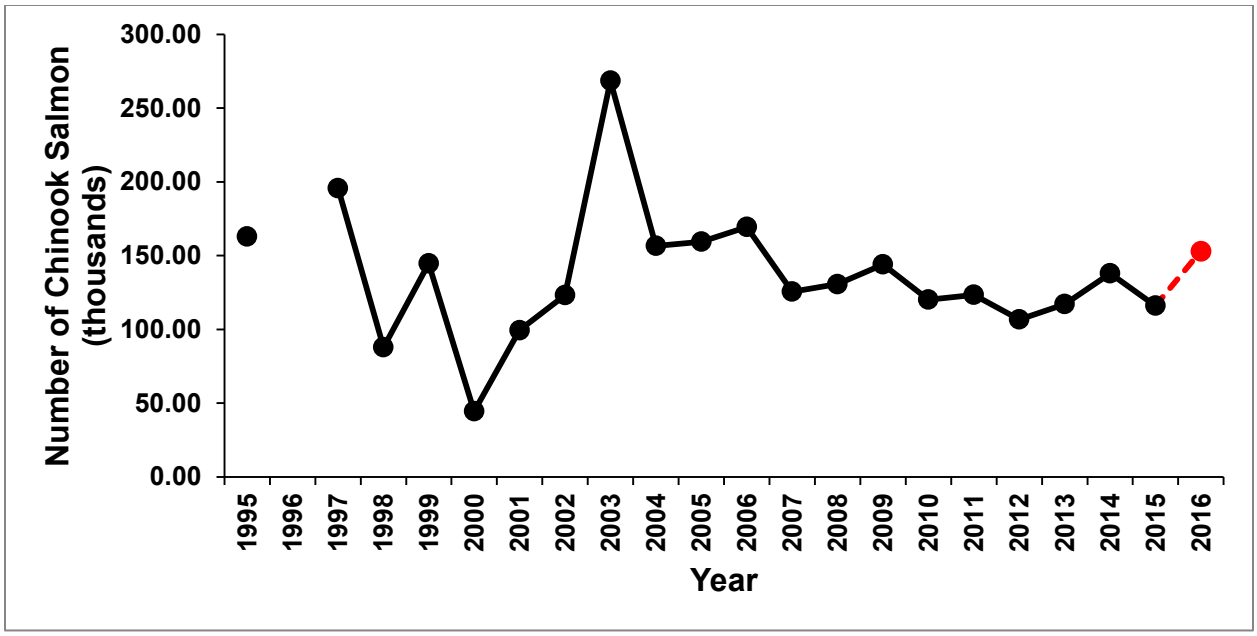


Figure 1. Chinook Salmon passage estimates based on the mainstem Yukon River sonar near Pilot Station, Yukon River drainage, 1995 and 1997-2015, with 2016 projection (JTC 2016, Appendix A2.). Red dashed line indicates the 2016 Chinook salmon passage outlook.

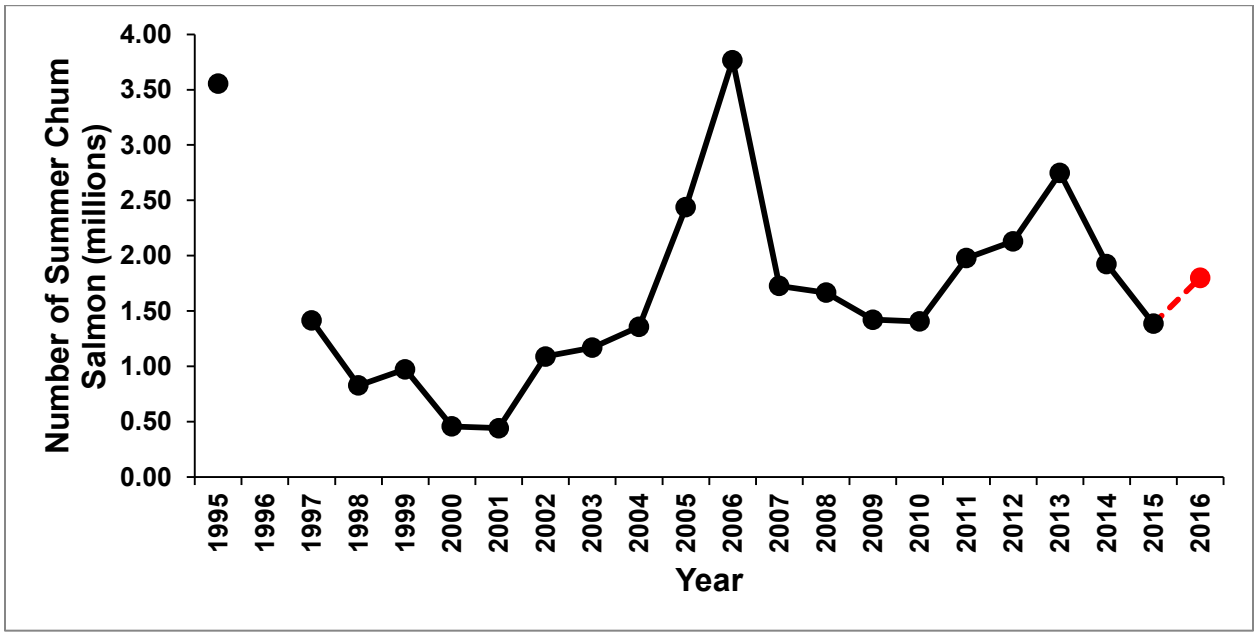


Figure 2. Summer Chum Salmon passage estimates based on the mainstem Yukon River sonar near Pilot Station, Yukon River drainage, 1995 and 1997-2015, with 2016 projection (JTC 2016, Appendix A2.). Red dashed line indicates the 2016 Summer Chum salmon passage outlook.

Harvest History

Chinook Salmon

The 2014 Chinook Salmon subsistence harvest of 2,720 fish was the lowest on record for the Alaska portion of the Yukon River drainage. Harvest increased slightly to approximately 6,640 Chinook Salmon in 2015 (**Figure 3**). Although the increase looks large when comparing successive years, both of these harvest numbers are still well below the 5-year subsistence harvest average (2011-2015) of 17,774 fish and well below the 2006-2010 average of 44,308 (JTC 2015, JTC 2016).

Subdistrict 4A's harvest trends appear to follow the same trajectory as the Yukon River, with severely declining harvest after 2010. The subdistrict's subsistence harvest comprised around 19% of the total subsistence harvest from the Yukon River, until 2014 when the subdistrict's harvest plummeted to 2% (**Figure 3, Figure 4**) On average, the communities surrounding the upstream section of Subdistrict 4A tends to harvest a larger portion compared to the downstream section (Estensen et al. 2015) (**Table 1)**.

Summer Chum Salmon

In 2014, subsistence users in the Alaska portion of the Yukon River harvested 74,240 summer Chum Salmon. Preliminary 2015 estimates show a marked decrease, with only 62,803 fish harvested (**Figure 5**). In both years subsistence harvest was below the recent 5-year average of 82,098 fish (JTC 2015, JTC 2016).

Subsistence harvest in the communities surrounding Subdistrict 4A has historically averaged around 7% of the total Yukon River harvest. The subdistrict's harvest trends follow the total Yukon River harvest very well (**Figure 5, Figure 6**). Since 2004, communities surrounding the upstream section in Subdistrict 4A tend to have slightly larger subsistence harvest than the downstream section. (Estensen et al. 2015; **Table 2)**.

Cultural Knowledge and Traditional Practices

The use and importance of salmon and other non-salmon species for Yukon River communities has been documented through oral histories and harvest surveys conducted in the area. Historically, many Yukon communities followed a semi-nomadic, subsistence lifestyle, spending time at seasonal camps, migrating with the resources and harvesting various species of fish, along with hunting and gathering subsistence resources. Humans have lived in the Yukon area for over 10,000 years and fishing was a family and community activity, deeply ingrained in to the cultures of the people in this area. People traditionally used weirs and fish traps, and nets made of animal sinew and willow bark and more recently employed set nets along with fish wheels for salmon at their fish camps. Multi-generational family groups would travel to seasonal camps to harvest fish and wildlife. Although fewer young people spend time at seasonal camps now due to employment, school, and other responsibilities, subsistence fishing continues to be important for communities up and down the river. According to surveys, many older people recalled whole families spending long hours at their fish camps, harvesting, processing, and preserving fish. Children learned

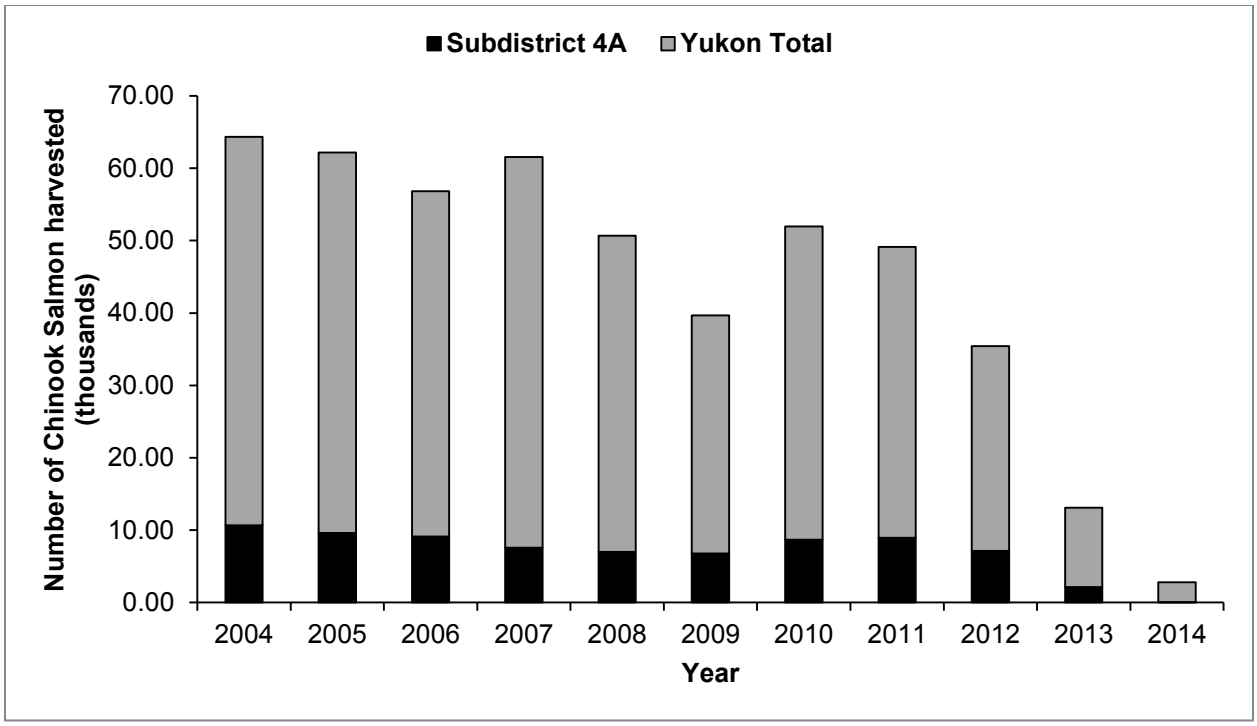


Figure 3. Comparison of Chinook Salmon subsistence harvest in communities surrounding Subdistrict 4A and the Yukon River from 2004 to 2014 (Estensen et al. 2015).

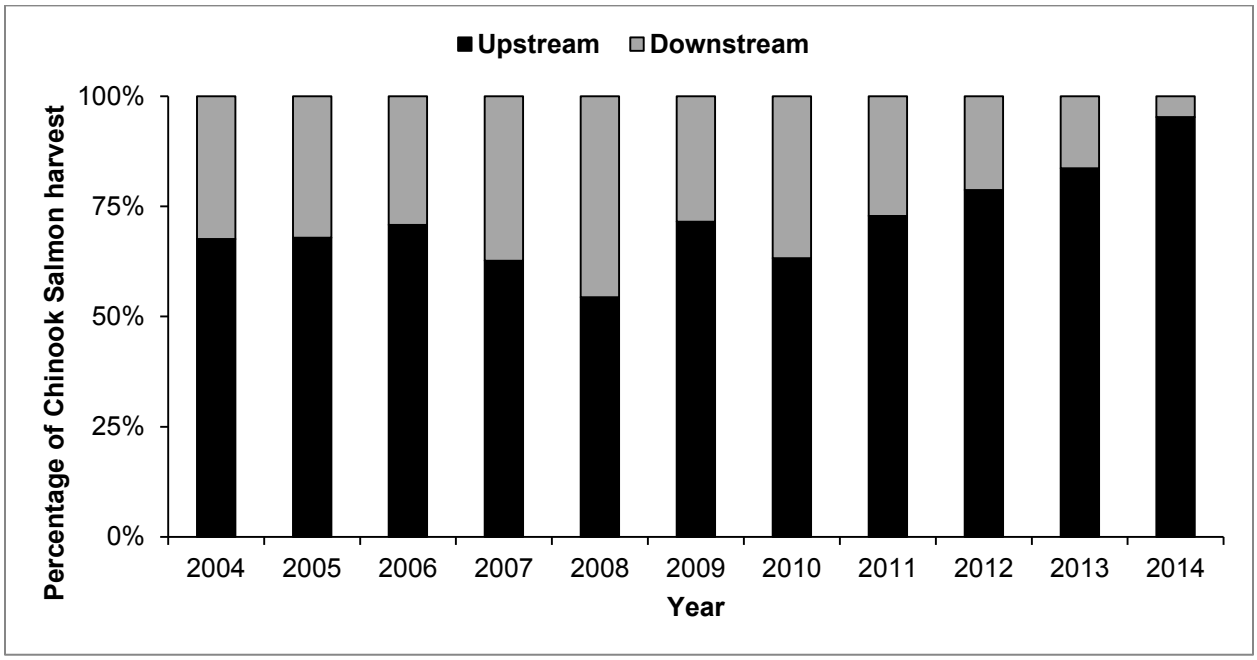


Figure 4. Comparison of upstream and downstream Chinook Salmon subsistence harvest in communities surrounding Subdistrict 4A from 2004-2014 (Estensen et al. 2015).

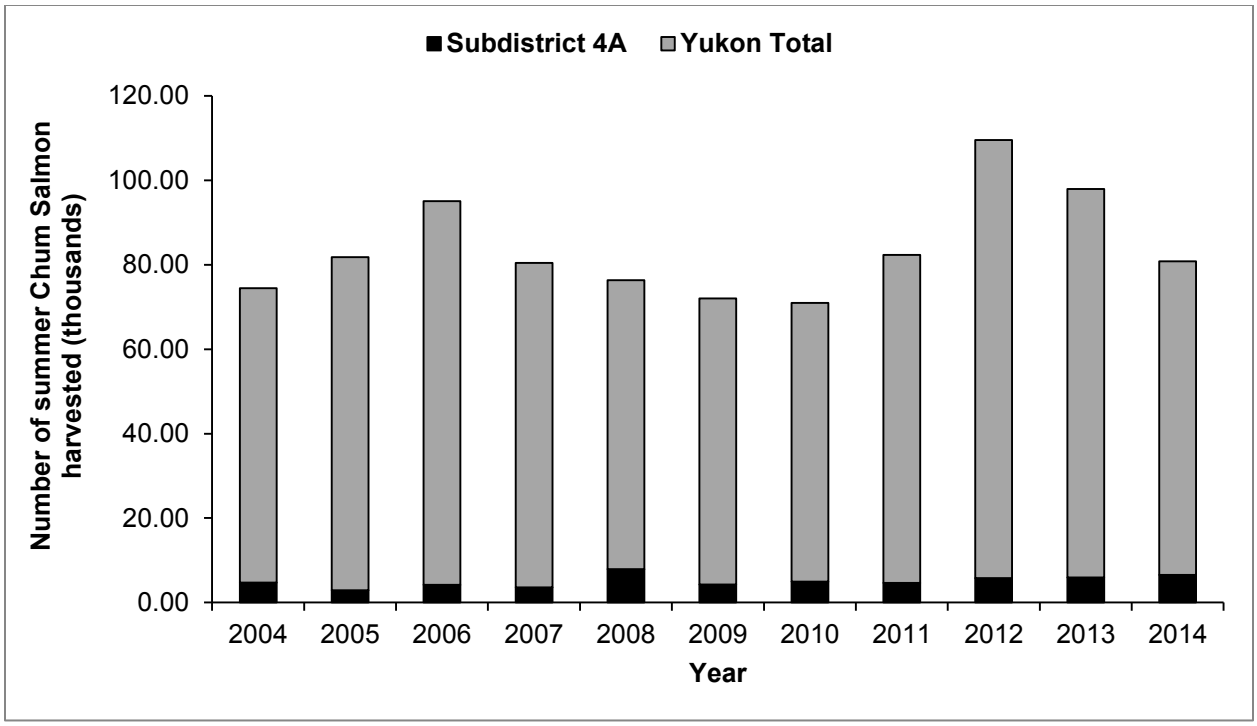


Figure 5. Comparison of summer Chum Salmon subsistence harvest in communities surrounding Subdistrict 4A and the Yukon River from 2004 to 2014 (Estensen et al. 2015).

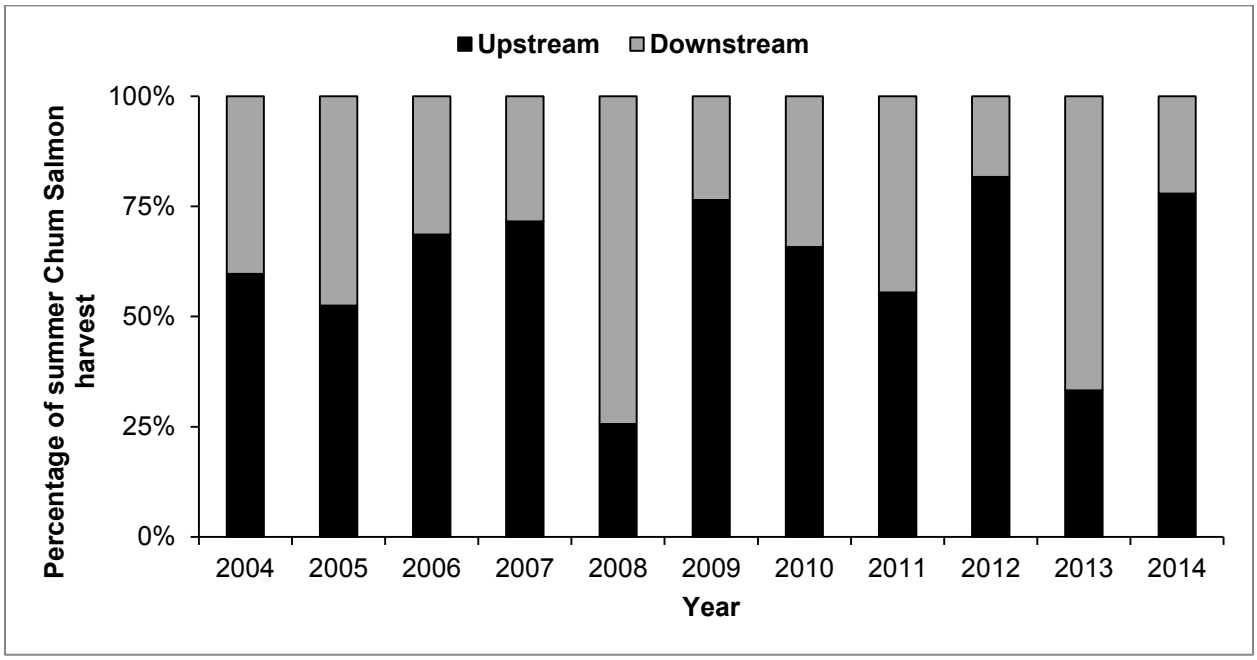


Figure 6. Comparison of upstream and downstream summer Chum Salmon subsistence harvest in communities surrounding Subdistrict 4A from 2004-2014 (Estensen et al. 2015).

Table 1. Chinook Salmon subsistence harvest totals from communities downstream and upstream of the mouth of Stink Creek, as estimated from postseason survey, returned permits and test fishery projects, Yukon Area, 2004-2015. The totals from downstream are from the communities of Anvik and Grayling, while the totals from upstream are from Kaltag, Nulato, Koyukuk, and Galena (Estensen et al. 2015).

Year	Downstream	Upstream	Subdistrict 4A	Yukon Total
2004	3,457	10,551	10,672	53,675
2005	3,084	9,376	9,602	52,561
2006	2,660	8,755	9,102	47,710
2007	2,821	7,209	7,557	53,976
2008	3,194	6,398	7,000	43,694
2009	1,929	5,873	6,771	32,900
2010	3,191	8,404	8,679	43,259
2011	2,426	6,809	8,932	40,211
2012	1,516	4,657	7,127	28,311
2013	347	2,123	2,123	10,991
2014	3	63	63	2,718
2015	N/A	N/A	N/A	6,640

Table 2. Summer Chum Salmon subsistence harvest totals from communities downstream and upstream of the mouth of Stink Creek, as estimated from postseason survey, returned permits and test fishery projects, Yukon Area, 2004-2015. The totals from downstream are from the communities of Anvik and Grayling, while the totals from upstream are from Kaltag, Nulato, Koyukuk, and Galena (Estensen et al. 2015).

Year	Downstream	Upstream	Subdistrict 4A	Yukon Total
2004	1,916	2,836	4,752	69,672
2005	1,377	1,522	2,899	78,902
2006	1,312	2,864	4,176	90,907
2007	1,031	2,596	3,627	76,805
2008	5,891	2,031	7,922	68,394
2009	1,000	3,246	4,246	67,742
2010	1,706	3,279	4,985	65,948
201	2,063	2,572	4,635	77,715
2012	1,058	4,713	5,771	103,751
2013	3,987	1,986	5,973	91,979
2014	1,448	5,106	6,554	74,240
2015	N/A	N/A	N/A	62,803

about subsistence activities from their elders at fish camp (Brown, Koster, and Koontz 2010; Brown and Godduhn 2015).

Customary trade of fish is an important part of continuing trade networks in rural areas of Alaska. Salmon fishing takes place in the summer and timing is based on the runs for various species. Local residents also use nets under the ice to fish for pike, whitefish, or sheefish in the spring before breakup. Communities have used various types of nets and fish wheels to harvest fish through the generations. Fish wheels are used less now than they were in the past when people were catching more fish to feed sled dogs, but are still used in some areas, mainly to catch fish for human consumption (Brown, Koster, and Koontz 2010). Chum salmon, once primarily used for dog food, was caught using nets set from the shore but is now consumed by people in the US and overseas. As more village runways were built, increasing air travel, and more snow machines were brought to the villages, the dependency on sled dogs was reduced, reducing the need for harvesting fish to feed dogs (Brown, Koster, and Koontz 2015).

Salmon is considered the most reliable and significant subsistence resource on the Lower Yukon River. Salmon has always been an important part of the culture, economically and socially, and the knowledge of how to catch, process, and preserve fish has been passed down from generation to generation. Before contact by outsiders dried fish was regularly traded between Yukon villages along with other commodities such as furs and sea mammal products (Wolfe 1981).

Yukon River residents are dependent on the harvest of salmon, especially Chinook Salmon, for both subsistence and commercial uses. Some people in places like Nulato, for example, became more interested in the cash earned from commercial fishing than in spending time at their fish camps for subsistence fishing. Starting in the late 1990s, Chinook Salmon began to decline so people harvested more summer and fall Chum Salmon along with other subsistence resources (Brown and Godduhn 2015).

In the 1960s, people started using gillnets to drift fish for salmon for personal and commercial use. Today fishing still plays an important cultural role in the communities along the lower and middle Yukon River, and the knowledge of how and when to fish is still passed down from generation to generation.

Effects of the Proposal

Adopting this proposal as submitted will allow Federally qualified subsistence users located in the lower portions of Subdistrict 4A the opportunity to harvest summer Chum Salmon with drift gillnets during times of Chinook Salmon conservation. This would provide more harvest opportunity for the affected communities when summer Chum Salmon are abundant and harvest of Chinook Salmon is limited. It also gives discretion to the Federal in-season manager, who can control the opening and closing of the driftnet harvest, based on the best-available data of salmon runs and timing in the area. Effects on summer Chum Salmon and Chinook Salmon are negligible as the State already allows drift gillnets in Subdistrict 4A during times of Chinook Salmon conservation.

Although increased opportunities of subsistence harvest for Federally qualified users is a large part of what this document covers, the crux of the proposal is to fix the inconsistency between State and Federal regulations pertaining to Subdistrict 4A. Currently, Federal regulations in both the upper and lower portions of Subdistrict 4A are not consistent with State regulations recently adopted by the Alaska Board

of Fisheries. If adopted, this proposal would make State and Federal management consistent in the downstream area, but does not alter the upstream area consistency.

In discussions with the Subsistence Specialist for the Koyukuk/Nowitna/Innoko National Wildlife Refuge, it was noted that some local Federally qualified subsistence users in the lower section of Subdistrict 4A would prefer to have the same regulations as the upper section of Subdistrict 4A, which would allow Federally qualified subsistence users to utilize drift gillnets to harvest Chum Salmon after August 2. The reasoning behind this is that Chum Salmon arriving before August 2 can be of good quality, but a majority of them are pretty close to spawning. As the current regulations exist, fishermen can only use set nets, which have very limited quality locations. As local fishermen see it, the extension of the drift gillnet fishing season matching the upper section of Subdistrict 4A would grant them increased harvest opportunities for quality fish other than Chinook Salmon during times of Chinook conservation (Havener 2016, pers. comm.).

OSM CONCLUSION

Support FP17-03 **with modification** to include the proposed changes to the upper section of Subdistrict 4A.

The modified regulation should read:

Yukon-Northern Area—Salmon

50CFR§100.27 Subsistence Taking of Fish

(e)(3) Yukon-Northern Area

(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),unless superseded by a Federal Special Action.

(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:

(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2, ***unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets.***

(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length

from June 10 through July 14, ***unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets.***

Justification

Adoption of this proposal will provide more harvest opportunity for Federally qualified subsistence users in the affected communities to meet their subsistence salmon needs during times of Chinook Salmon conservation and when summer Chum Salmon are concurrently abundant.

Adding the same regulations as the downstream section of Subdistrict 4A to the upstream section of sub-district 4A would make Federal and State regulations consistent. It would also provide managers the ability to enact separate restrictions to the subdistrict areas should the need arise.

While the suggested modifications would address the upper section of Subdistrict 4A, it is important to note that although State and Federal regulations will mirror each other, there will still remain a discrepancy amongst regulations in the upper and lower sections of the subdistrict. The upper area of the subdistrict allows Chum Salmon harvest via gillnet after August 2, while the lower area does not.

LITERATURE CITED

ADF&G. 2001. Staff comments on subsistence, personal use, sport, guided sport, and commercial finfish regulatory proposals. Alaska Board of Fisheries meeting (Anchorage) for the Bristol Bay, AYK, and Alaska Peninsula/Aleutians Islands Finfish Areas. January 9 – February 2, 2001. page 235.

Brown, Caroline, Anna Godduhn. 2015. Socioeconomic Effects of Declining Salmon Runs on the Yukon River. Alaska Department of Fish and Game, Division of Subsistence.

Brown, Caroline, David Koster, and Phil Koontz. 2010. Traditional Ecological Knowledge and Harvest Survey of Nonsalmon Fish in the Middle Yukon River Region, Alaska, 2005-2008. Alaska Department of Fish and Game, Division of Subsistence.

Estensen, J. L., S. N. Schmidt, S. Garcia, C. M. Gleason, B. M. Borba, D. M. Jallen, A. J. Padilla, and K. M. Hilton. 2015. Annual management report Yukon Area, 2014. Alaska Department of Fish and Game, Fishery Management Report No. 15-50, Anchorage.

Havener, J. 2016. Refuge Subsistence Specialist Koyukuk/Nowitna/Innoko National Wildlife Refuge. Personal communication: email. USFWS. Galena, AK.

JTC (Joint Technical Committee of the Yukon River US/Canada Panel). 2015. Yukon River salmon 2014 season summary and 2015 season outlook. ADF&G, Division of Commercial Fisheries, Regional Information Report3A13-02, Anchorage.

JTC (Joint Technical Committee of the Yukon River US/Canada Panel). 2016. Yukon River salmon 2015 season summary and 2016 season outlook. Alaska Department of Fish and Game, Division of Commercial Fisheries, Regional Information Report 3A15-01, Anchorage.

Pope, D. 1979. The Upper Yukon and other freshwater salmon fisheries: findings, conclusions, and recommendations. Prepared for the Eleventh Alaska Legislature. Anchorage.

Schindler, D., C. Krueger, P. Bisson, M. Bradford, B. Clark, J. Conitz, K. Howard, M. Jones, J. Murphy, K. Myers, M. Scheuerell, E. Volk, and J. Winton. 2013. Arctic-Yukon-Kuskokwim Chinook Salmon Research Action Plan: Evidence of Decline of Chinook Salmon Populations and Recommendations for Future Research. Prepared for the AYK Sustainable Salmon Initiative (Anchorage, AK). v + 70 pp.

Wolfe, R.J. 1981. Norton Sound/Yukon Delta Sociocultural Systems Baseline Analysis. Alaska Department of Fish and Game, Division of Subsistence.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Support FP17-03 **as modified by OSM**. The Council confirmed with Staff presenting that this proposal would allow Federally qualified subsistence users an increased opportunity to fish for Chum salmon with the use of drift gill nets. The proposal would also reduce regulatory complexity by having equal State and Federal regulations in these fishing districts.

Western Interior Alaska Subsistence Regional Advisory Council

Support FP17-03 **as modified by OSM**. Council members noted the proposal would allow fishing downstream of Stink Creek. Council members also noted the proposal would be beneficial to the tribes and simplify regulations by promoting alignment with guidelines adopted by the Board of Game. Council members added there is already an adequate supply of Chum Salmon.

Seward Peninsula Subsistence Regional Advisory Council

Support FP17-03 **as modified by OSM**. The Council noted that this proposal would simplify regulations by aligning federal with state regulations, and supported FP17-03 as modified by OSM.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support FP17-03 **as modified by OSM.** This action will allow Federal and State regulations to be more similar to reduce confusion in where there is a patchwork of jurisdictions. The simplified regulations make it easier for users to understand and follow them.

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

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-03: This proposal was submitted by the Western Interior Alaska Subsistence Regional Advisory Council and would allow drift gillnet subsistence fishing for chum salmon in the lower portion of Subdistrict 4A of the Yukon River between June 10 and August 2.

Background: The current Federal regulation allows targeting of Chinook salmon by drift gillnets only in the lower portion of Subdistrict 4A from June 10 through July 14. The proposed change would align Federal and State regulations and allow subsistence users the opportunity to target summer chum salmon with drift gillnets during times of Chinook salmon conservation.

Impact on Subsistence Users: This would reduce complexity in the regulations by aligning Federal and State regulations.

Impact on Other Users: None.

Opportunities Provided by the State: 5 AAC 01.220. Lawful gear and gear specifications (a) Salmon may be taken only by gillnet, beach seine, a hook and line attached to a rod or pole, handline, or fish wheel, subject to the restrictions set out in this section, 5 AAC 01.210, and 5 AAC 01.225 - 5 AAC 01.249.
(d) In District 4, commercial fishermen may not take salmon for subsistence purposes during the commercial salmon fishing season by gillnets larger than six-inch mesh after a date specified by emergency order issued between July 10 and July 31.
(e) In Districts 4, 5, and 6, salmon may not be taken for subsistence purposes by drift gillnets, except as follows:

(1) in Subdistrict 4-A upstream from the mouth of Stink Creek,
(A) king salmon may be taken by drift gillnets from June 10 through July 14, unless closed by emergency order;
(B) from June 10 through August 2, the commissioner may open, by emergency order, fishing periods during which chum salmon may be taken by drift gillnets; and (C) chum salmon may be taken by drift gillnets after August 2;

(2) in Subdistrict 4-A downstream from the mouth of Stink Creek,
(A) king salmon may be taken by drift gillnets from June 10 through July 14, unless closed by emergency order;
(B) from June 10 through August 2, the commissioner may open, by emergency order, fishing periods during which chum salmon may be taken by drift gillnets;

(3) a person may not operate a drift gillnet that is more than 150 feet in length during the seasons described in (1) and (2) of this subsection.

The Board of Fisheries has found that 45,500–66,704 Chinook salmon are reasonably necessary for subsistence in the Yukon Area.

Recommendation: The State SUPPORTS this proposal, and SUPPORTS the modification proposed by USFWS OSM to include the proposed changes to the upper section of Yukon River Subdistrict 4A. Adoption of this proposal would simplify enforcement by providing consistency between Federal and State regulations.

FP17-11 Executive Summary	
General Description	Proposal FP17-11, requests that the residents of Dry Creek be added to the customary and traditional use determination for salmon in the Glennallen subdistrict of the Upper Copper River District. *Submitted by the Dry Creek Community Corporation.*
Proposed Regulation	**Unit—Glennallen Subdistrict of the Upper Copper River District— Salmon** *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 U.S./Canada border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.*
OSM Conclusion	**Support**
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Eastern 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 Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	**Neutral**
Written Public Comments	**1 Oppose**

STAFF ANALYSIS
FP17-11

ISSUE

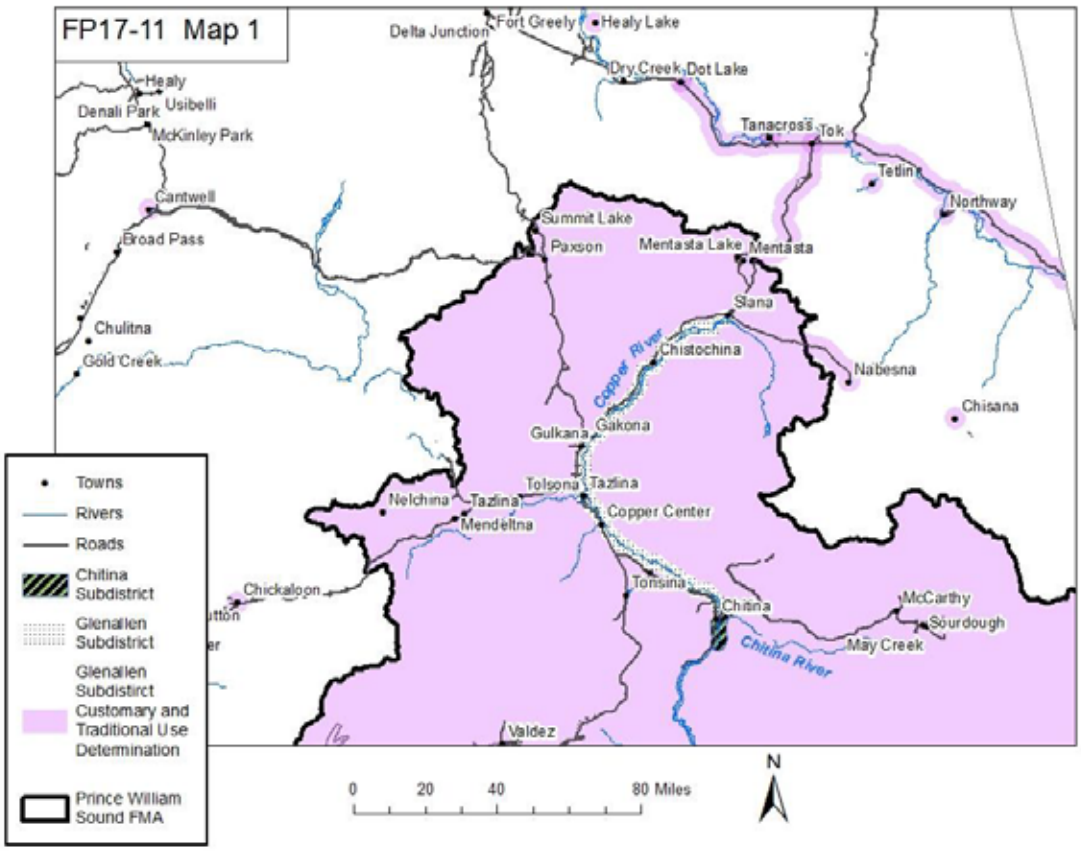
Proposal FP17-11, submitted by the Dry Creek Community Corporation, requests that the residents of Dry Creek be added to the customary and traditional use determination for salmon in the Glennallen subdistrict of the Upper Copper River District.

DISCUSSION

The Dry Creek Community Corporation is requesting the community of Dry Creek be added to the customary and traditional use determination for salmon in the Glennallen Subdistrict of the Upper Copper River District. The proponent states that residents of Dry Creek have harvested Copper River salmon for over forty years and are "well within the radius of those villages who are allowed to fish on Federal Land on the upper Copper River" (**Map 1**). In the past, harvest of Copper River salmon usually took place under a State subsistence permit at Chitina above the bridge by fish wheel, but in recent years the course of the Kotsina River changed, making access to the wheel site difficult and dangerous.

Existing Federal Regulation

> **Unit—Glennallen Subdistrict of the Upper Copper River District— Salmon**
>
> *Residents of the Prince William Sound Area and residents of Cantwell, Chickaloon, Chisana, Dot Lake, Healy Lake, Northway, Tanacross, Tetlin, Tok, and those individuals living along the Alaska Highway from the U.S./Canada border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.*



Map 1. Includes all communities with C&T for Salmon in the Glennallen Subdistrict as well as the location of Dry Creek.

Proposed Federal Regulation

Unit—Glennallen Subdistrict of the Upper Copper River District— Salmon

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 U.S./Canada border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.*

Extent of Federal Public Lands/Waters

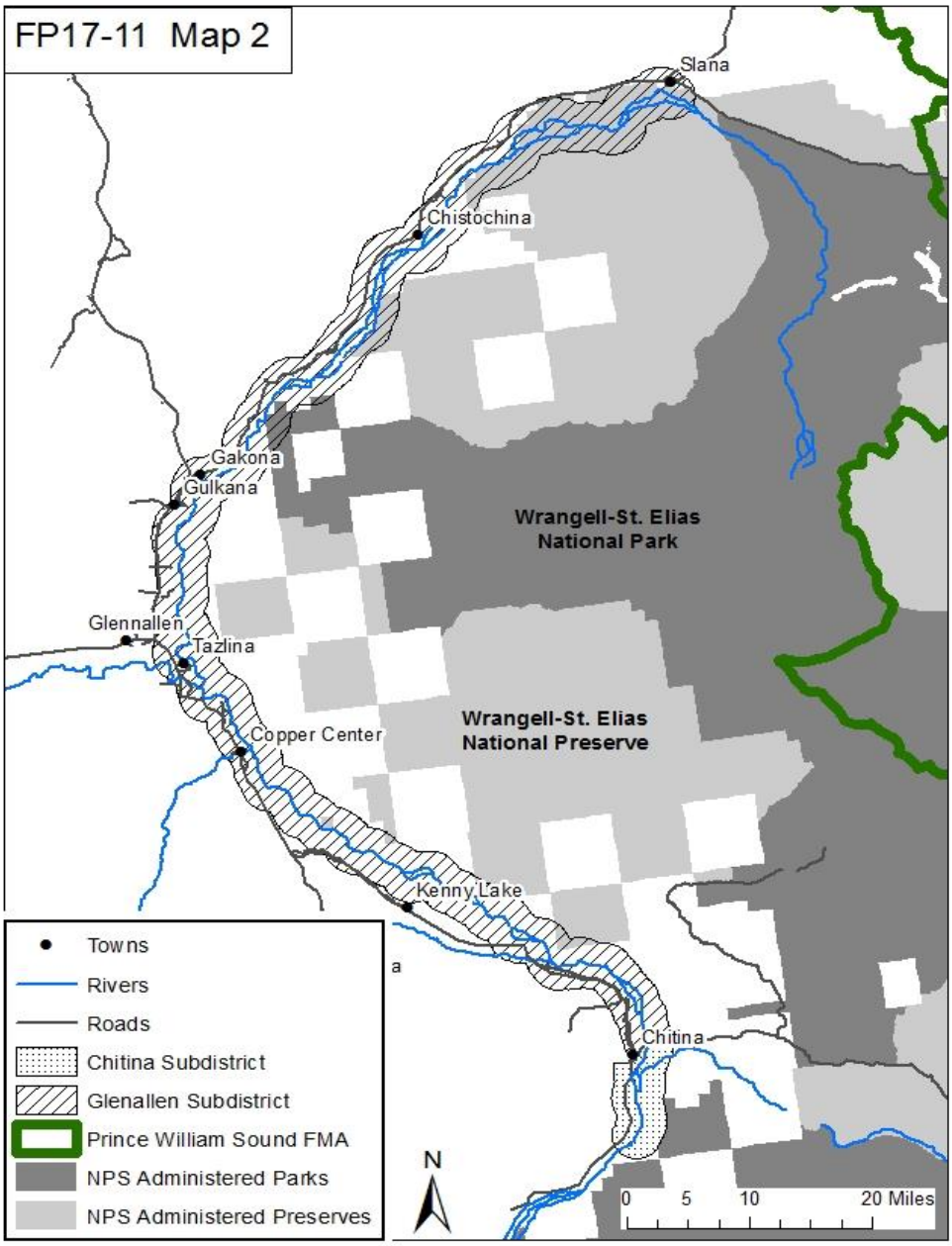
For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 50 CFR 100.3(b). Federal public waters of the Copper River include all waters within the exterior boundaries of the Wrangell-St. Elias National Park and Preserve and the Chugach National Forest, and inland waters adjacent to these exterior boundaries. The Upper Copper River District is comprised of the Chitina Subdistrict and the Glennallen Subdistrict. The Chitina Subdistrict consists of all waters of the mainstem Copper River downstream of the southern edge of the Chitina-McCarthy Road Bridge to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek, a distance of approximately 10 miles. The Glennallen Subdistrict consists of all waters of the mainstem Copper River from the lower edge of the mouth of the Slana River to the downstream edge of the Chitina-McCarthy Road Bridge, a distance of approximately 120 miles (**Map 2**).

Regulatory History

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

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

In 2001, the Board adopted Proposal FP02-17 submitted by the Wrangell-St. Elias National Park Subsistence Resource Commission, requesting changes to the regulations in addition to a review of eligible subsistence fishers for the district. This proposal was divided into two separate proposals. Proposal FP02-17a added Chisana and Cantwell to the customary and traditional use determination for salmon in the Glennallen Subdistrict, and Chisana to the customary and traditional use determination for salmon in the Chitina Subdistrict. Proposal FP02-17b allowed those with customary and traditional use determination for salmon in the Chitina Subdistrict and/or those with customary and traditional use for salmon in the Glennallen Subdistrict to obtain a permit for each Subdistrict in the same year.



Map 2. Glennallen and Chitina Subdistricts – Demonstrates the Glennallen and Chitina Subdistricts of the Copper River, and the Batzulnetas fishery.

Additionally, Proposal FP02-17b ensured the combined harvests from both districts would not exceed the harvest limit set for the Glennallen District, and allowed for multiple gear types to be specified on each permit. During the same regulatory cycle, the Board adopted Proposal FP02-20 which allowed those households with a Batzulnetas subsistence salmon permit to be issued an additional permit for both Chitina and Glennallen Subdistricts in the same year.

In 2004, the Chickaloon Village Traditional Council submitted Proposals FP05-14 which requested that Chickaloon be added to the Chitina Subdistrict customary and traditional use determination for salmon, and FP05-15 requesting Chickaloon be added to the Glennallen Subdistrict. The Board adopted the proposals adding Chickaloon to the customary and traditional use determination for salmon in the Chitina and Glennallen Subdistricts as of the 2005 regulatory year.

Community Characteristics

Dry Creek is a Census Designated Place (CDP) located along the Alaska Highway in the Upper Tanana watershed north of Tok. Its southeastern border shares a boundary with the Dot Lake CDP and the Deltana CDP begins approximately five highway miles to the northwest. The most recent Federal census found 94 residents living within the Dry Creek CDP in 2010 (U.S. Census Bureau 2011). While conducting comprehensive subsistence surveys in 2012, the Alaska Department of Fish and Game, Division of Subsistence, verified 91 year-round residents living in a total of 30 households (Holen, Hazel & Koster 2012). In key respondent interviews conducted in 2012, residents of the Dry Creek corporate community recalled a population high of about 200 residents in the 1980s (Holen, Hazel & Koster 2012). At the time research was being conducted, the Division of Subsistence found the population had remained relatively stable over the previous 20 years.

As of 2012, the majority of Dry Creek residents belonged to an intentional faith-based communal settlement called the Living Word Ministry with additional households outside the community but still within the boundaries of the CDP. Of the 30 households identified as year-round residents within the CDP, 25 were occupied by members of the intentional community and five were occupied by surrounding neighbors (Holen, Hazel, & Koster 2012). Despite the distinction between the intentional community and its neighbors, residents express a sense of unity and cohesion and often come together to share labor, recreation, and to address area-wide concerns.

The community of Dry Creek was established in 1973 by four families from the contiguous United States who came to Alaska with the intention of living communally off the land and local wild resources. At the time of their arrival few if any members had experience with subsistence farming or hunting and virtually no experience homesteading in such an extreme northern climate. They had come to Alaska to learn, and to provide for themselves and their growing community. They acquired land through the State of Alaska's "Open to Entry" land offering program. The parcel was rough, wooded, and with no amenities aside from a few log cabins. As more people joined the original founders, families doubled up in the cramped cabins until more structures were built. By 1975 the community had grown to about 88 residents, all of whom

helped to homestead the property and build homes and common structures; the most important of which was the large community building called "the tabernacle."

The community building serves as the center of communal life for Dry Creek. The large log-hewn structure is a church, kitchen, dining hall, mail room, common room, nursery and, at one time, the school house. In the early days, all meals were prepared and eaten in the community building. By 2012, and long after all residents had their own cabins and houses with kitchens, lunch and supper were still being served in the dining area (with the exception of Wednesday evenings and Saturdays, when residents were expected to eat meals in their own homes). In addition to communal meals, the community kitchen serves as the location for the processing of key resources like moose, caribou, and salmon, and where community grown foods are processed as well. Dry Creek makes its own dairy products like butter, cheese, and yogurt from dairy cows kept on the land.

The intentional community of Dry Creek has a number of enterprises that provided residents with wage employment and community resources. Logging and Milling Associates, LLC is a community-owned mill that produces lumber and milling by-products for resident projects and buildings as well as for sale across the state. S&K farms boards the domestic animals of others as well as Dry Creek farm animals. The farms have extended acres of hay, oats and barley, grazing lands and pastures, and approximately 40 acres of trees that are selectively harvested for mill needs. During 2012, according to ADF&G, many community residents were occupied with various tasks in settlement up-keep and administration including working the gardens, tending animals, teaching in the school house or overseeing the communal meals and meetings; only a few residents were actually employed outside of Dry Creek (Holen, Hazel, & Koster 2012).

Eight Factors for Determining Customary and Traditional Use

A community or area's customary and traditional use is generally exemplified through the following eight factors: (1) a long-term, consistent pattern of use, excluding interruptions beyond the control of the community or area; (2) a pattern of use recurring in specific seasons for many years; (3) a pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics; (4) the consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from the community or area; (5) a means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate; (6) a pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation; (7) a pattern of use in which the harvest is shared or distributed within a definable community of persons; and (8) a pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area. It should be noted that not all eight factors need to be addressed in order for a community to have a recognized customary and traditional use of a resource.

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

The research used to inform the following analysis was taken from the only comprehensive subsistence survey conducted in the Dry Creek CDP for the 2011 harvest year (Holen, Hazel, & Koster 2012). Standard forms of tracking harvest under the State sport, subsistence, or personal use permitting systems do not work for Dry Creek as the community mail address is located in Delta Junction.

The residents of the Dry Creek CDP *have a long-term, consistent pattern of Copper River salmon use* extending back to the early 1970s, soon after the founding of the intentional community. During the initial stages of homesteading, the early families established ties with Sapa, another faith-based community from the Copper River Basin, which is located within the Kenny Lake CDP. Long-time Dry Creek residents recall first using a fish wheel on the Copper River very near Sapa. At that time, a large group of men and women traveled to the wheel together to harvest, process, and can fish on the banks of the river. After Dry Creek's community house was built, the community's *means of handling, preparing, preserving, and storing fish* changed somewhat. Salmon are now harvested with only preliminary processing (heading, gutting, and filleting) conducted at the wheel site. The remainder are brought back to Dry Creek where freezing and canning are completed. When the harvesters return with the fish, most able-bodied members of the community put aside their immediate work until all the fish are processed and the community kitchen is cleaned. Both at the wheel and back in the kitchen, knowledge of harvesting and processing is shared from one generation to the next. Over the years, the fish wheel remained the preferred and most *efficient method* of harvest for Dry Creek.

In 2011, Dry Creek harvested approximately 358 salmon, most of which were Sockeye Salmon. Dry Creek harvesters usually make one trip down to the fish wheel at Chitina and try on average to harvest at least 300 salmon a season. In 2011, the first trip yielded poor results and so a second trip was made resulting in what residents reported was a slightly larger harvest in comparison to other years (Holen, Hazel, & Koster 2012:525). Because of Dry Creek's unique pattern of processing salmon as a group and preparing and sharing salmon for community meals, all households demonstrated what ADF&G estimated as high use of the salmon resource; 100%. For context, other eastern interior Tanana Valley communities surveyed for the same study demonstrated salmon use per household at 100% for Dot Lake, 69% for Tok, and 67% household use of salmon in Healy Lake (Holen, Hazel, & Koster 2012)

Residents of Dry Creek have a consistent *pattern of use that has recurred in specific seasons over the course of many years*. Subsistence activities are focused on the harvest of key wild resources during the most productive months of summer and fall for efficient and productive efforts intended to provide for all community members. In an average year, residents will make one or two trips to the Copper River to harvest salmon, travel to Valdez once a year to deep-sea fish for halibut, and organize hunting trips for moose and caribou. Neighbors and other residents of the Dry Creek CDP will occasionally join the intentional community residents in their hunting efforts. Not all attending the hunt actually harvest an

animal, but all are present to help with the preliminary processing in the field and the transport of meat back to the community. Most Dry Creek CDP households also participate in the harvest and processing of wild plants and berries, separate from those resources grown in the community gardens or at home. Additionally, households may hunt for migratory waterfowl in the spring or upland gamebirds year-round, or hunt and trap for small game and furbearers in season or fish on local lakes throughout the year. These last efforts are primarily for individual household use and are not considered major contributors to the community at large or the shared meals in the tabernacle. Most critical for, and unique to this community in the region, is the use of horses to access the Macomb Plateau controlled use area where they harvest moose and caribou.

Dry Creek's seasonal round of harvest activities also demonstrates *a pattern of use which relates to reliance upon a diversity of fish and wildlife resources of the area*. In 2011, Dry Creek households used an average of approximately 11 wild harvested resources with at least one household using a maximum of 33 different resources total. The top resources harvested by edible weight included moose at 92 lb per person, Sockeye Salmon (17 lb), caribou (14 lb), low-bush cranberry (8 lb), and Rainbow Trout at 2 lb per person, among others (Holen, Hazel, & Koster 2012:494-500). The total estimated amount of wild foods harvested by Dry Creek in 2011 was 12,767 lb, or about 140 lb per person. As noted in the paragraph above, most of these resources were harvested locally, with community members traveling the farthest to harvest salmon and deep-sea fish.

The *pattern of sharing and distribution* of wild resources in Dry Creek is quite distinctive. The majority of wild resources are harvested and processed communally and shared daily through community meals. In addition to community meals, the distribution of all cooperatively harvested and grown foods to every family and household is essential for community survival. All households participate in some stage of food production, whether hunting, gathering, gardening, animal husbandry, or the various efforts of food processing, preservation and storage. These products of communal labor are stored in the shared facilities and made available for residents to use in their own homes as well as in the preparation of shared daily meals in the community building. Residents take turns preparing meals in the community kitchen for all members. It is during shared meals that moose, salmon, and wild berries are eaten most regularly. Residents of the intentional community as well as Dry Creek CDP neighbors, also cook wild foods harvested on their own or with others in their own homes. In this way, sharing and receiving is seen as intrinsic to the community, and something that almost everyone does in some way, whether or not they actually harvested the food themselves.

Effects of the Proposal

If the Board adopts this proposal, the community of Dry Creek would have an opportunity to harvest salmon under Federal subsistence management regulations on inland waters within or adjacent to Federal public lands in the Copper River watershed. Residents would have access to other fish wheels in Federal waters along the Copper River such as a fish wheel in Slana, which is significantly closer to Dry Creek, in addition to their traditional harvest location of Chitina above the bridge. Regardless of location or the type

of regulations under which the community would fish, the average annual community harvest of 300 to 500 fish would likely not change.

If the Board does not recognize the customary and traditional use of Copper River salmon by the rural residents of Dry Creek, the community would not be able to fish in Slana, but would continue to harvest under State regulations at Chitina above the bridge.

OSM CONCLUSION

Support FP17-11.

Justification

Dry Creek has a recognizable long-term pattern of harvesting salmon in the Copper River watershed, extending back over 40 years, with unique patterns of processing, sharing, and distribution. Salmon is the second most harvested resource in the community and residents rely heavily upon salmon to meet their subsistence needs. The amount of salmon harvested from the Copper River by Dry Creek would likely remain unchanged; however, the rural residents of Dry Creek would be given greater opportunity to harvest salmon under Federal subsistence management regulations on inland waters within or adjacent to Federal public lands that are closer to their community.

LITERATURE CITED

Holen, D., S. M. Hazell, and D. S. Koster, editors. 2012. Subsistence harvests and uses of wild resources by communities in the eastern Interior of Alaska. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 372. Anchorage, Alaska.

U.S. Census Bureau. 2011. 2010 Census. U.S. Census Bureau, Washington, D.C. http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Support FP17-11. The Council stated there was substantial evidence to support the proposal submitted by the Dry Creek Community demonstrating their long term pattern of use of salmon. The Council received written public comments from the Wrangell-St. Elias Subsistence Resource Commission supporting the proposal stating the community met the C&T Use criteria for the community. It would be detrimental to subsistence users to deny the C and T.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support FP17-11. Council members stated that Dry Creek residents showed a long term pattern of use noting that it is a year-round community descendants of the original settlement still live there and they continue to hand down hunting skills and values. They are going to care of the resource for their children. The RAC members from the region provided much detail about the community's lifestyles. It was also stated that the passage of this proposal will allow the residents of Dry Creek to fish closer to their home community (from the same river).

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 Council recommendation and Federal Subsistence Board action on the proposal.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-11: This proposal, submitted by the Dry Creek Community Corporation, requests that residents of Dry Creek be added to the customary and traditional use determination for salmon in the Glennallen Subdistrict of the Upper Copper River District.

Background: Dry Creek is a small community located along the Alaska Highway in the Upper Tanana watershed north of Tok. In 2011, the most recent comprehensive community subsistence survey conducted, households in Dry Creek harvested approximately 358 salmon, most of which were sockeye salmon (Holen, Hazell, and Koster 2012). In 2013, the department and the National Park Service (NPS) issued a total of 1,616 subsistence salmon permits for the Glennallen Subdistrict, which is higher than the recent 5-year average (1,559) and 10-year average (1,417), and the 1989–2012 average of 1,118 (Fall et al. 2015). Estimated harvest for both federal and state fisheries was 99,390 salmon, majority of which were sockeye salmon. By species, estimated harvest was 96,573 sockeye, 2,663 Chinook, and 154 coho

salmon. Sometimes a few chum salmon are reported. The total estimated harvest was higher than the 5-year average (82,946), 10-year average (83,850), and historical average (1989–2012; 70,106). Copper Basin residents caught 27% of the harvest, other Alaska residents 73%. Copper Basin communities held 353 permits (22%) and other Alaska residents held 1,263 permits (78%). The communities with the most permits and salmon harvested were Anchorage with 359 permits, Fairbanks with 247 permits, Wasilla with 192 permits, Palmer with 108 permits, and Copper Center with 110 permits.

Impact on Subsistence Users: Residents of Dry Creek would have a shorter distance to travel in order to harvest salmon for subsistence uses, which is in alignment with the customary and traditional use pattern of taking or use consisting of methods and means of harvest that are characterized by efficiency and economy of effort and cost.

Impact on Other Users: Since the allocations have not changed, the State does not think there would be impacts to other users. Residents of Dry Creek have a long-standing practice of harvest that has not impacted other users.

Opportunities Provided by the State: In addition to a personal use fishing opportunity, the State provides a subsistence fishing opportunity for Copper River salmon stocks as follows:

> *5 AAC 01.605. Description of districts and subdistricts*
> (a) The Upper Copper River District consists of all waters of the mainstem Copper River from the mouth of the Slana River downstream to an east-west line crossing 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.
>
> *5 AAC 01.610. Fishing seasons*
> …
> (b) Salmon may be taken in the Upper Copper River District only as follows:
>
> > (1) in the Glennallen Subdistrict, from June 1 through September 30;
> > …
> > (3) when the Copper River subsistence fishery is closed or restricted because of an inadequate escapement of sockeye or king salmon, the fishery may be reopened September 1 for the taking of coho salmon, which constitute the majority of the salmon at that time.
>
> 5 AAC 01.616. *Customary and traditional subsistence uses of fish stocks and amounts necessary for subsistence uses*
> (a) The Alaska Board of Fisheries (board) finds that salmon stocks are customarily and traditionally taken or used for subsistence in the following locations:

(1) The Glennallen Subdistrict of the Upper Copper River District described in 5 AAC 01.605(2) …

(b) The board finds that the following amounts of salmon are reasonably necessary for subsistence uses in the following locations:

(1) Glennallen Subdistrict of the Upper Copper River District:

(A) in that portion from the southern boundary of the subdistrict at the downstream edge of the Chitina-McCarthy Road Bridge to the mouth of the Tonsina River: 25,500 – 39,000 salmon;

(B) in that portion from the mouth of the Tonsina River upstream to the mouth of the Gakona River: 23,500 – 31,000 salmon;

(C) in that portion from the mouth of the Gakona River upstream to the mouth of the Slana River, and the waters of the Copper River as described in 5 AAC 01.647(i)(3): 12,000 – 12,500 salmon;

5 AAC 01.620. *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 01.630. *Subsistence fishing permits*

...

(b) Salmon and freshwater fish species may be taken only under authority of a subsistence fishing permit.

…

(d) Only one subsistence fishing permit will be issued to each household per year.

(e) The following apply to Glennallen Subdistrict subsistence salmon fishing permits:

(1) only one type of gear may be specified on a permit;

(2) only one Glennallen Subdistrict subsistence salmon fishing permit per calendar year may be issued to a household;

(3) permits must be returned to the department no later than October 31, or a permit for the following year may be denied as provided in 5 AAC 01.015(c);

…

(7) only the permit holder and the authorized member of the household listed on the subsistence permit may take salmon;

(8) a subsistence permit holder shall record all harvested fish on the permit, in ink, before concealing the fish from plain view or transporting the fish from the fishing site; for the purposes of this paragraph, "fishing site" means the location where the fish is removed from the water and becomes part of the permit holder's bag limit;

…

(h) A subsistence fishing permit may be issued to a village council, or other similarly qualified organization whose members operate fish wheels for subsistence purposes in the Glennallen

Subdistrict, to operate fish wheels on behalf of members of its village or organization. A permit may only be issued following approval by the department of a harvest assessment plan to be administered by the permitted council or organization. The harvest assessment plan must include

(1) provisions for recording daily catches for each fish wheel;

(2) sample data collection forms;

(3) other information specified by the department;

(4) location and number of fish wheels;

(5) the full legal name of the individual responsible for the lawful operation of each fish wheel; and

(6) other information determined by the department to be necessary for effective resource management.

(i) Unless otherwise provided in this section, regulations governing fishing under the authority of a village council permit issued under (h) of this section, or other permit issued under this section, are those generally applicable to Glennallen Subdistrict subsistence fishing permits.

(j) The following additional provisions apply to Glennallen Subdistrict subsistence fishing permits issued under (h) of this section:

(1) the permit will list all households and household members for whom the fish wheel is being operated;

(2) the allowable harvest may not exceed the combined seasonal limits as listed in (e) of this section for the households listed on the permit; the permittee will notify the department when households are added to the list, and the seasonal limit may be adjusted accordingly;

(3) members of households listed on a permit issued to a village council or other similarly qualified organization, are not eligible for a separate household subsistence fishing permit for the Upper Copper River District;

(4) under authority delegated through a permit issued to a village council or other similarly qualified organization, an individual or individuals designated by the permitted group may issue household subsistence fishing permits to households not listed as participants in fishing fish wheels operated directly by a village council or other similarly qualified organization; the permittee may also register fish wheels; the harvest assessment plan may authorize the permittee to collect, compile, and report to the department the subsistence harvests of these household permit holders;

(5) authority to enforce all applicable laws and regulations may not be delegated through permits issued under (h) of this section.

5 AAC 01.645. *Subsistence bag, possession, and size limits; annual limits*

(a) The total annual possession limits for a Glennallen Subdistrict subsistence salmon fishing permit is as follows:

(1) for a household with one person: 30 salmon, of which no more than five may be king salmon if taken by dip net;

(2) for a household with two persons: 60 salmon, of which no more than five may be king salmon if taken by dip net;

(3) 10 salmon for each additional person in a household over those specified in (2) of this subsection, except that the household's limit under (2) of this subsection for king salmon taken by dip net does not increase;

(4) upon request, a permit for additional salmon will be issued with the following limits:

(A) no more than a total of 200 salmon for a permit issued to a household with one person, of which no more than five may be king salmon if taken by dip net;

(B) no more than a total of 500 salmon for a permit issued to a household with two or more persons, of which no more than five may be king salmon if taken by dip net.

Recommendation: The State is NEUTRAL on this proposal, since it addresses the eligibility requirements of federally-qualified subsistence users.

WRITTEN PUBLIC COMMENTS

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

May 5, 2016

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

Dear Mr. Matuskowitz:

We, the Ahtna Tene Nene' C&T Committee, are opposed to FP17-11 to include residents of Dry Creek to have a positive Customary and Traditional Use Determination for Salmon in the Glennallen Subdistrict and Chitina Subdistrict of the Upper Copper River District.

Customary and traditional uses of Salmon, in which a long term, continuous, re-occurring pattern of use has not occurred, the community of Dry Creek does not meet criteria for C&T uses and should not be granted a positive C&T Determination for Salmon in the Glennallen Subdistrict and Chitina Subdistrict of the Upper Copper River District.

In FP17-11, fishing in the Upper Copper River District and Kotsina River has only occurred in the last few years, **the proposal states, "In recent years the subsistence harvest has occurred primarily at Chitina, and "In recent years the Kotsina River ....making access to the fish wheels very difficult and also dangerous.**

Over the last 40 years, residents who live in the Living Word Ministry settlement **may have** received Salmon from SAPA, a disbanded religious settlement in Kenny Lake, but that does not constitute meeting the requirements for C&T criteria. They also **may have** helped SAPA with preserving Salmon, but that does not mean that they have practiced C&T from year to year, nor does it mean that have passed on knowledge or stories about fishing in the Upper Copper River District.

It is our understanding that Living Word Ministry Inc. submitted FP17-11 on behalf of the community of Dry Creek. WP17-11 was submitted by Dry Creek Community Corporation.

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According to ADFG's report, entitled, *Subsistence Harvests and Uses of Wild Resources by Communities in the Eastern Interior of Alaska*, 2011, four families settled at Living Word Ministry Inc. in 1973, through land granted SOA Open to Entry land offering program. It is a religious settlement that was established in 1973 by 4 families.

Most religious organizations take sabbatical leave for one to three years to raise monies for their livelihood. They usually leave and return after several years. Customary and traditional uses cannot be practiced in a continuous method over several years and skills cannot be handed down from generation to generation if residents are leaving off and on to the lower forty-eight states to raise monies to support their families.

Living Word Ministry settlement began with 4 families and has increased in membership over the years. The question is whether these 88 residents who now live in this settlement are descendants of the original 4 families. **Is this settlement an evolving settlement in which "corporate residents" come and leave the settlement every few years?**

And do they have customary and traditional use patterns of the resources that is consistent, long term, and re-occurring in specific seasons for numerous years. Are they handing down fishing and hunting skills, knowledge, lores and values from generation to generation?

If the residents are leaving and moving back to an area, and new members are moving into the Living Word Ministry settlement, the community of Dry Creek does not meet the criteria of C&T uses and patterns of fish and wildlife resources, and do not qualify to have a positive C&T Determination for Salmon in the Upper Copper River District. Residents of a religious settlement that is made up of residents who stay for a few years and move elsewhere do not meet C&T patterns and uses of fish and wildlife resources.

As FP17-11 states only in "recent years has Dry Creek Community fished in the Upper Copper River District! The community of Dry Creek have not harvested Salmon in the Upper Copper River District continuously for many years. They have not practiced C&T uses in a continuous generational to generational pattern in which skills, lore's and stories are passed on. They have not fished continuously in the Upper Copper River in a re-occurring seasons.

We have a concern that residents of Dry Creek community will be trespassing on Ahtna, Inc. and other private lands in the Chitina Subdistrict areas and Glennallen Subdistrict areas. Access to the Copper River to place a fish wheel or to have a fishing site to the fish wheel in the Copper River is minimal. Trespass on Ahtna, Inc. lands is an ongoing concern to Ahtna, Inc., trespass occurs continuously during the fishing and hunting season.

We oppose a positive C&T Determination for Salmon in the Upper Copper River District to residents of Dry Creek. We do not agree that they have re-occurring patterns and uses of Salmon that is continuous, re-occurring seasonally from year to year, passing on of knowledge, skills, lore's, and stories of Salmon uses in the Upper Copper River District.

Sincerely,

Gloria Stickwan
for Roy S. Ewan

Roy S. Ewan, Chairperson

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FP17-13 Executive Summary	
General Description	Proposal FP17-13 requests clarifying the regulation that prohibits the use of nets on the road systems associated with the communities of Wrangell, Petersburg and Sitka. S*ubmitted by: the Southeast Alaska Subsistence Regional Advisory Council.*
Proposed Regulation	*§___.27(i)(13)(ix) No permits for the use of nets will be issued for the salmon streams flowing across or adjacent to the road systems ~~within the city limits~~ of Petersburg, Wrangell, and Sitka.*
OSM Conclusion	**Support with modification** to prohibit the use of nets for road accessible streams of Petersburg, Wrangell, Sitka and Petersburg Creek. The modified regulation should read: *§___.27(i)(13)(ix) ~~No permits for the use of n~~**N**ets ~~will be issued for the salmon~~ **are prohibited in** streams flowing across or adjacent to the road systems ~~within the city limits~~ **connected to the communities** of Petersburg, Wrangell, ~~and~~ Sitka **and Petersburg Creek**.*
Southeast Alaska Subsistence Regional Advisory Council Recommendation	**Support with modification** to identify the islands where the communities of Wrangell and Petersburg are located. The modified regulation should read: *§___.27(i)(13)(ix) ~~No permits for the use of n~~**N**ets ~~will be issued for the salmon~~ **are prohibited in** streams flowing across or adjacent to the road**s** ~~systems~~ **on Wrangell Island, Mitkof Island,** ~~within the city limits of Petersburg, Wrangell,~~ and **in streams flowing across or adjacent to the road system connected to the community of** Sitka**.***
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
FP17-13

ISSUES

Proposal FP17-13, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council), requests clarifying the regulation that prohibits the use of nets on the road systems associated with the communities of Wrangell, Petersburg and Sitka.

DISCUSSION

The Council would like a determination whether the current language is still appropriate because these three communities now have unified city/borough governments and references to city limit boundaries for Petersburg and Wrangell expand the areas closed to fishing with nets on Wrangell and Mitkof Islands by definition without an appropriate public process.

The prohibition regarding the use of nets in salmon streams crossed by or adjacent to the road systems within the city limits of Petersburg, Wrangell and Sitka has been in place since the inception of the Federal subsistence fisheries management program in 1999. The City of Sitka has been a unified city/borough since 1971 and has not changed city boundaries. The City of Wrangell became a unified city/borough in 2008 and the City of Petersburg became a unified city/borough in 2013; effectively eliminating the old city limit boundaries, and expanding the city/borough boundaries to all the streams accessible by roads on Wrangell and Mitkof Islands. The fisheries resources of the road accessible streams connected to these communities are limited and easily accessible to the communities. The use of nets in these streams would likely result in a conservation concern.

Existing Federal Regulation

> *§___.27(i)(13)(ix) No permits for the use of nets will be issued for the salmon streams flowing across or adjacent to the road systems within the city limits of Petersburg, Wrangell, and Sitka.*

Proposed Federal Regulation

> *§___.27(i)(13)(ix) No permits for the use of nets will be issued for the salmon streams flowing across or adjacent to the road systems ~~within the city limits~~ of Petersburg, Wrangell, and Sitka.*

Existing State Regulation

> **5 AAC 01.747. Subsistence fishing policy for the Petersburg, Wrangell, and Sitka Road systems**
> *(a) Salmon streams flowing across or adjacent to the road systems of Petersburg, Wrangell, and Sitka support only limited runs of salmon. Harvestable numbers of salmon in excess of the spawning escapement needs for those streams are normally of such a small magnitude that these numbers alone are not sufficient to support the consumptive demands of those communities. Therefore, permits allowing the use of nets shall not be issued for the streams along the road systems of those communities.*

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3.

All waters of the areas are within the exterior boundaries of the Tongass National Forest and are considered Federal public waters for the purposes of Federal subsistence fisheries management.

Customary and Traditional Use Determinations

The community of Wrangell is located on Wrangell Island and streams that are adjacent to the road system flow into fishing Districts 7 and 8. The community of Petersburg is located on Mitkof Island and streams that are adjacent to the road system drain into fishing Districts 6 and 8. The community of Sitka is located on Baranof Island and the streams adjacent to the road system drain into fishing District 13, Section 13B, north of the latitude of Redfish Cape.

You must be a Federally qualified user to harvest salmon, Dolly Varden, trout, smelt, and Eulachon.

Federally qualified users for District 6 include: residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage; residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 & 8, including the communities of Petersburg & Wrangell; and residents of the communities of Meyers Chuck and Kake.

Federally qualified users of District 7 include: residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 & 8, including the communities of Petersburg & Wrangell; and residents of the communities of Meyers Chuck and Kake.

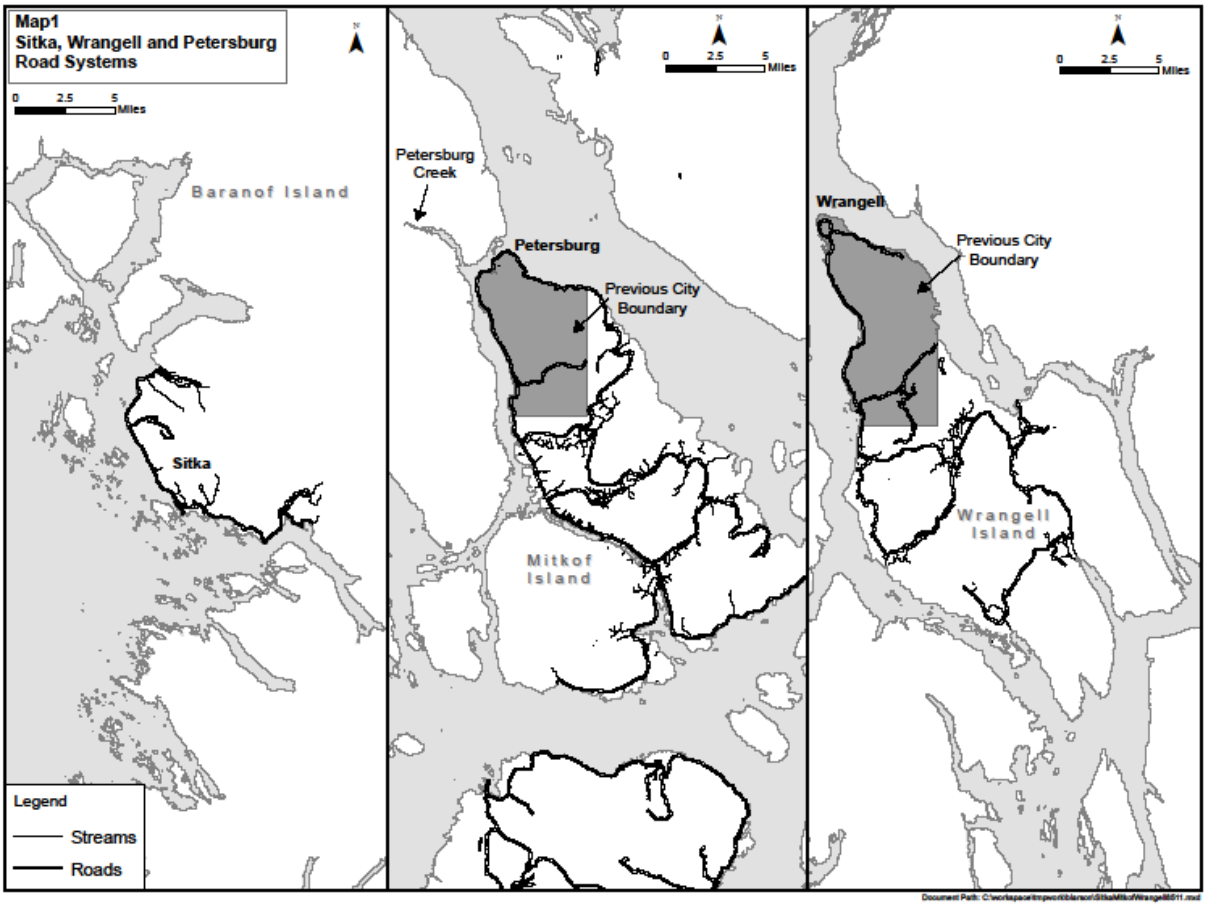
Federally qualified users of District 8 include: residents of drainages flowing into Districts 7 and 8, residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island), and residents of Meyers Chuck.

Federally qualified users of District 13, Section 13B, north of the latitude of Redfish Cape include:

Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.

Regulatory History

This regulation has been in place since the Federal subsistence program assumed responsibility for subsistence fishing. In-season managers clarified the effects of new city boundaries by including a prohibition on the use of nets as a permit condition for all salmon streams adjacent to the road systems of Petersburg and Wrangell for the 2013 season. In 2014, the permit condition was amended to include the use of rod and reel only for subsistence fishing in all streams for the entirety of Wrangell and Mitkof Islands, plus Petersburg Creek, a stream located on Kupreanof Island near Petersburg. The gear restriction for the road accessible streams of Sitka has remained the same, no nets on salmon streams accessible by road from the community. The only area closed to salmon fishing is the waters of Indian River within the boundaries of the Sitka National Historic Park. Wrangell and Mitkof Islands have an extensive road network both within and outside of the original city boundaries (**Map 1**) and many of the remaining watersheds may have new roads associated with timber harvest activities in the near future.



Biological Background

Coho, Chum and Pink Salmon are present in most of the streams adjacent to the road systems near these three communities. . All stream systems that contain salmon also contain trout and char, several of the larger streams, including Petersburg Creek, contain steelhead. Most of these systems have small returns with the exception of Starrigavan Creek and Indian River near Sitka that sometimes have significant Pink Salmon returns. The only system with a significant Sockeye Salmon return is Toms Creek on Wrangell Island. There is a remote release site for hatchery Chum Salmon near Earl West Cove Creek on Wrangell Island and a Coho and Chinook Salmon hatchery and release site in Blind Slough on Mitkof Island. Petersburg Creek has healthy returns of Coho and Pink Salmon in addition to a small Sockeye Salmon population and a well-known steelhead population.

Harvest History

The Federal subsistence fisheries permit system has been in place since 2003. Subsistence harvest has been reported from one road accessible stream of Petersburg, four road accessible streams of Wrangell and four road accessible streams of Sitka. The total subsistence harvest from the road-side streams for all years for Petersburg is two trout. The total subsistence harvest from the road-side streams for all years for Wrangell is two Coho Salmon, 41 Pink Salmon, 131 trout, 14 Sockeye Salmon, and one steelhead. The total subsistence harvest for all years from the road-side streams for Sitka is 17 Brook Trout, four Coho Salmon, six Dolly Varden, four Pink Salmon and 43 trout (OSM 2016).

There are sport fisheries for salmon, Dolly Varden, steelhead and trout on streams adjacent to the roads connecting to all three communities but the total harvest is unknown due to the small size of these fisheries (Chadwick 2016, pers. comm.).

Other Alternative(s) Considered

An alternative is to amend the regulation to include the prohibition on use of nets in Petersburg Creek. Although Petersburg Creek is located on Kupreanof Island across Wrangell Narrows from the community of Petersburg, it is within the new unified city/borough boundary. This stream is easily accessible from the community of Petersburg, has limited resources and has the same vulnerabilities as other road accessible streams near Petersburg. Subsistence fishing permits currently include a prohibition on the use of nets in Petersburg Creek. The total subsistence harvest for all years for Petersburg Creek is 60 Sockeye Salmon (OSM 2016).

Effects of the Proposal

The language in the current regulation is outdated. If the proposal is adopted, the prohibition on the use of nets in salmon streams would be clarified to include all streams on Wrangell and Mitkof Islands accessible by road from Wrangell and Petersburg. If the intent is to keep the prohibition on use of nets to the pre-unification boundaries, a description of this area could be developed. There would be no change

for Sitka because that community was a unified city/borough prior to 1999 and the city boundaries have not changed.

Currently the use of nets is not allowed on streams adjacent to the roads connected to the communities of Wrangell, Petersburg and Sitka in both State and Federal regulations or permit conditions. Adopting this proposal results in no changes to current practices and aligns Federal and State subsistence fishing regulations. Rod and reel, gaffs, spears and handlines for snagging would remain as legal gear.

Petersburg Creek is within the unified city/borough boundary of Petersburg, but is located on Kupreanof Island near the community of Petersburg. This stream shares the same fish population concerns and management vulnerabilities as the road accessible streams of Petersburg, Wrangell and Sitka, and the use of nets is currently prohibited by permit.

OSM CONCLUSION

Support Proposal FP17-13 **with modification** to prohibit the use of nets for road accessible streams of Petersburg, Wrangell, Sitka and Petersburg Creek.

The modified regulation should read:

> *§___.27(i)(13)(ix) ~~No permits for the use of n~~**N**ets ~~will be issued for the salmon~~* ***are prohibited in*** *streams flowing across or adjacent to the road systems ~~within the city limits~~* ***connected to the communities*** *of Petersburg, Wrangell, ~~and~~ Sitka* ***and Petersburg Creek****.*

Justification

The reference to Wrangell and Petersburg city limit boundaries in the current regulation include an area much larger than the area affected when the regulation was first adopted because the communities of Wrangell and Petersburg have expanded their unified city/borough boundaries to include the whole of Wrangell and Mitkof Islands. The intent of the original regulation is still valid and it is appropriate to expand the area where nets are not allowed for conservation of these small, highly vulnerable stocks. The use of nets in any salmon stream adjacent to the road systems of these communities would likely cause a conservation concern. Prohibiting the use of nets allows a reasonable level of subsistence use while protecting the health of salmon, char, trout and steelhead populations in streams adjacent to roads connected to the communities of Petersburg, Wrangell and Sitka.

The preliminary conclusion includes a prohibition for the use of nets in Petersburg Creek. Nets are currently prohibited in Petersburg Creek as a permit condition because this stream shares the same characteristics and risks for overexploitation as other road accessible streams.

LITERATURE CITED

Chadwick, R. 2016. Management Coordinator, Division of Sport Fish. Personal communication: phone. ADF&G. Sitka, AK

Office of Subsistence Management (OSM). 2016. Subsistence permit database, updated May 2016.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Support FP17-13 **with modification.** The City of Sitka has been a unified city/borough since 1971 and has not changed city boundaries. However, the City of Wrangell became a unified city/borough in 2008 and the City of Petersburg became a unified city/borough in 2013; effectively eliminating the old city limit boundaries. The regulation that references the old city boundaries must be updated as those boundaries no longer exist. The Council determined that prohibiting the use of nets in streams adjacent to the road systems connected to Petersburg, Wrangell and Sitka allows a meaningful level of subsistence use while protecting the health of salmon, char, trout and steelhead populations. This action reduces regulatory complexity as Federal rules regarding the use of nets would now be the same as State regulations on streams accessible by road to the communities of Wrangell, Petersburg, and Sitka. The Council considered management of Petersburg Creek to be a different issue from updating the current regulation and wanted a separate staff analysis and an opportunity for public comment as a result of a different proposal before taking action. The Council considered this proposal to be more than housekeeping and discussed the origin of the original regulation, whether it was necessary to prohibit nets on all streams in all instances in these areas, and the role of the in-season manager in establishing permit conditions or restrictions on a site and time specific basis prior to taking action.

The modified regulation should read:

> *§___.27(i)(13)(ix) ~~No permits for the use of n~~**N**ets ~~will be issued for the salmon~~* ***are prohibited in*** *streams flowing across or adjacent to the road**s*** *~~systems~~* ***on Wrangell Island, Mitkof Island,*** *~~within the city limits of Petersburg, Wrangell,~~ and* ***in streams flowing across or adjacent to the road system connected to the community of*** *Sitka**.***

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

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-13: This proposal, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests the board remove the term "city limits" from the regulation prohibiting the use of nets in streams flowing across or adjacent to the road systems of Petersburg, Wrangell, and Sitka.

Background: The prohibition on nets in streams along the road systems within the city limits of Petersburg, Wrangell, and Sitka has been in place since the inception of the Federal subsistence fisheries management program in 1999. The cities of Wrangell and Petersburg each became unified city/boroughs in 2008 and 2013, respectively, which effectively eliminated old city boundaries. Sitka has been a unified city/borough since 1971 and has not changed city boundaries.

Fishery resources of the road accessible streams are easily accessed by the communities, and the use of nets in these streams could result in a conservation concern. Removal of the term "city limits" would expand the prohibition on nets to all streams flowing across or adjacent to the road systems of Petersburg, Wrangell and Sitka. The use of nets in any stream adjacent to the road systems of Petersburg Wrangell and Sitka would likely cause a conservation concern, because most of these streams have small returns.

Impact on Subsistence Users: State subsistence regulations prohibit the use of nets in streams flowing across or adjacent to the road systems of Petersburg, Wrangell and Sitka (5 AAC 01.747). In 2013 federal subsistence permits included a prohibition on the use of nets as a permit condition for all salmon streams adjacent to the road systems of Petersburg and Wrangell, and in 2014 the permit was amended to include the use of rod and reel only for subsistence fishing in all streams for the entirety of Wrangell and Mitkof Islands (plus Petersburg Creek on Kupreanof Island).

Impact on Other Users: None anticipated.

Opportunities provided by the State: In the Petersburg and Wrangell areas, the state subsistence salmon permit prohibits fishing on those salmon streams crossing or adjacent to the road systems unless otherwise permitted. On the Wrangell road system there is a state subsistence sockeye salmon fishery on Thom's Creek with a possession limit of 20 sockeye salmon and an annual limit of 40 sockeye salmon. There are no state subsistence salmon fisheries on streams that cross the Sitka road system.

> 5 AAC 01.747. *Subsistence fishing policy for the Petersburg, Wrangell, and Sitka road systems*
> (a) Salmon streams flowing across or adjacent to the road systems of Petersburg, Wrangell, and Sitka support only limited runs of salmon. Harvestable numbers of salmon in excess of the spawning escapement needs for those streams are normally of such a small magnitude that these numbers alone are not sufficient to support the consumptive demands of those communities.

Therefore, permits allowing the use of nets shall not be issued for the streams along the road systems of those communities.

5 AAC 01.745. Subsistence bag and possession limits; annual limits

…

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

(1) sockeye salmon may not be taken for subsistence uses, except that sockeye salmon may be taken in the vicinity of Point Baker as described in 5 AAC 01.710(f) and (c) of this section, and in the following waters, with the following possession and annual limits:

…

(C) District 7: in the following waters, the possession limit is 20 sockeye salmon, with an annual limit of 40 sockeye salmon:

(i) Mill Creek;

(ii) Thoms Creek;

Recommendation: The State is NEUTRAL on this proposal.

FP17-14 Executive Summary	
General Description	Proposal FP17-14 requests that a sling bow with a barbed fishing arrow attached by a line be added as a method to take Pink Salmon in the Southeastern Alaska Area. *Submitted by: David Adams of Sitka, Alaska.*
Proposed Regulation	*§___.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.* *(a) Definitions.* *Bow means a longbow, recurve bow, or compound bow, excluding a crossbow or any bow equipped with a mechanical device that holds arrows at full draw.* ***A fishing arrow must have a barbed tip and be attached by a line to the device used to propel it.*** ***Sling shot means a forked stick, to which an elastic strap (or straps) is fastened to the two prongs.*** ***A sling bow is a slingshot that has been made or adapted to shoot an arrow.*** Southeastern Alaska Area *§___.27(i)(13)(iv)(B) Unless otherwise specified in this paragraph (e)(13) of this section, allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.* *§___.27(i)(13)(xv) Unless noted on a Federal subsistence harvest permit, there are no harvest limits for pink or chum salmon.* ***A sling bow and fishing arrow attached by a line may be used to harvest Pink Salmon.***
OSM Conclusion	**Support**
Southeast 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	**Oppose**
Written Public Comments	**None**

STAFF ANALYSIS
FP17-14

ISSUES

Proposal FP17-14, submitted by David Adams of Sitka, Alaska requests that a sling bow with a barbed fishing arrow attached by a line be added as a method to take Pink Salmon in the Southeastern Alaska Area.

DISCUSSION

The proponent states that allowing a sling bow and fishing arrow to harvest Pink Salmon would provide additional opportunity to harvest Pink Salmon. The proponent clarified that this proposal would apply to the Southeastern Alaska Area. There is no definition of this gear type in Federal regulation. A sling bow is a sling shot that has been made or adapted to shoot an arrow. A sling shot is defined in the Oxford Online Dictionary as a forked stick, to which an elastic strap is fastened to the two prongs, typically used for shooting small stones. A fishing arrow is a barbed arrow attached to the sling bow with a line to retrieve fish.

No literature has been found indicating that Pink Salmon or other fish were traditionally taken by sling bow and arrow in Southeast Alaska. However; Title VIII of ANILCA does not restrict methods and means to customary and traditional types so the Board could allow the use of a sling bow and arrow to take Pink Salmon in the Southeastern Alaska Area.

Existing Federal Regulations

36 CFR 242 and 50 CFR 100

§ ___.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) Definitions.

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow or any bow equipped with a mechanical device that holds arrows at full draw.

Southeastern Alaska Area

§___.27(i)(13)(iv)(B) Unless otherwise specified in this paragraph (e)(13) of this section, allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.

§___.27(i)(13)(xv) Unless noted on a Federal subsistence harvest permit, there are no harvest limits for pink or chum salmon.

Proposed Federal Regulation

36 CFR 242 and 50 CFR 100

§ ___.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) Definitions.

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow or any bow equipped with a mechanical device that holds arrows at full draw.

A fishing arrow must have a barbed tip and be attached by a line to the device used to propel it.

Sling shot means a forked stick, to which an elastic strap (or straps) is fastened to the two prongs.

A sling bow is a slingshot that has been made or adapted to shoot an arrow.

Southeastern Alaska Area

§___.27(i)(13)(iv)(B) Unless otherwise specified in this paragraph (e)(13) of this section, allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.

§___.27(i)(13)(xv) Unless noted on a Federal subsistence harvest permit, there are no harvest limits for pink or chum salmon. ***A sling bow and fishing arrow attached by a line may be used to harvest Pink Salmon.***

Extent of Federal Public 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.

If adopted this proposal would apply to all Federal public waters in the Southeastern Alaska Area between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance. Subsistence uses are not authorized in the following National Park Service lands: Glacier Bay National Park, Klondike Gold Rush National Historical Park, and Sitka National Historical Park.

Customary and Traditional Use Determinations

All salmon customary and traditional use determinations for the Southeastern Alaska and Yakutat areas apply and can be found at 36 CFR 242.24 (2) and 50 CFR 100.24 (2).

Regulatory History

Federal regulatory history

In 2004, the Southeast Alaska Subsistence Regional Advisory Council (Council) submitted proposal FP05-19 to define legal gear types for Federal subsistence salmon fisheries in the Southeast Alaska Area. At its fall meeting in 2004, the Council recommended supporting the proposal with modification to apply specifically to salmon and that gear types be inclusive of all types of seines. Sling bow and arrow was not among the gear types recommended by the Council for general regulations in the Southeastern Alaska Area (SESRAC 2004). Proposal FP05-19 was adopted by the Board, with modification recommended by the Council, at its January 2005 meeting (FSB 2005).

There have been no proposals submitted to the Federal Subsistence Board (Board) to allow the use of a sling bow and fishing arrow. However, there have been proposals to allow the use of bow and arrow for the harvest of salmon.

At its January 2007 meeting, the Board adopted proposal FP07-06, with modification, to allow the taking of salmon by snagging (by handline or rod and reel), spear, bow and arrow, and capture by hand in Lake Clark and its tributaries by residents of Nondalton, Port Alsworth, Pedro Bay, Iliamna, Newhalen, and Lime Village (FSB 2007a:91–92).

At its December 2007 meeting, the Board adopted proposal FP08-11, with modification, to allow the taking of salmon by means of spear, bow and arrow, or capturing by bare hand in the Alaska Peninsula and Chignik Areas (FSB 2007b:230-231).

Proposal FP15-12, requested that bow and arrow be added as a method to take salmon in the Southeastern Alaska Area. The Council opposed this proposal. They determined that using a bow and arrow for fishing is a recreational activity that is not allowed in either State or Federal regulation and is not a customary and traditional method in the Southeastern Alaska Area. The Council was concerned there were unknown conservation concerns due to fishing mortalities associated with wounding (SESRAC 2012). The Board supported the Councils opposition to the proposal at the January 2013 Board Meeting (FSB 2013).

State regulatory history

The use of a sling bow and arrow to harvest salmon is not allowed nor defined under State of Alaska regulations.

The gear type most similar to a sling bow is a bow and fishing arrow. Under State regulations a bow used for fishing is defined as “a long bow, recurve bow, compound bow and cross bow” while the arrow used “must have a barbed tip and be attached by a line to the bow”. Salmon may not be taken by bow and arrow under State regulations.

In 2005, a proposal was submitted to the Alaska Board of Fisheries to allow the use of archery and compound bow rigged for fishing as a means to take subsistence salmon in the Southeast Alaska Area. The

Council opposed this proposal. ADF&G staff comments stated that archery is not a traditional means for harvesting salmon in southeast Alaska (ADF&G 2006a). The Alaska Board of Fisheries rejected the proposal citing lack of public support and lack of a customary and traditional use pattern for taking fish with archery gear (ADF&G 2006b).

Effects of the Proposal

If this proposal is adopted it would provide an additional gear type to harvest salmon in the Southeastern Alaska Area, thereby expanding subsistence opportunity for Federally qualified subsistence users. It is unknown how many harvesters would choose to use this gear type to harvest salmon. Other options are available to harvest salmon including more efficient methods and gear types that could be used in similar circumstances as a sling bow and arrow. Depending on the skill of the user this can be a selective gear type. There is the possibility for waste but perhaps no more so than with other allowable gear types like spears, gaffs and snagging with a hand line which are also dependent on the skill of the user. General regulations contain a provision specifically prohibiting the intentional waste or destruction of fish. There are no harvest limits for Pink Salmon in the Southeast Alaska Area and there is no expectation that the use of a sling bow and arrow would lead to an unsustainable level of harvest of Pink Salmon.

OSM CONCLUSION

Support FP17-14

Justification

Adoption of this proposal would result in additional opportunity for Federally qualified subsistence users. It is unknown how many people will choose to use this gear type, however its use is not expected to lead to an unsustainable level of harvest of Pink Salmon or have any effect on non-Federally qualified users. Although this is not a traditional gear type, Title VIII of ANILCA does not restrict methods and means to customary and traditional types so the Board could allow the use of a sling bow and arrow to take Pink Salmon in the Southeastern Alaska Area.

LITERATURE CITED

ADF&G. 2006a. Staff comments on subsistence, personal use, sport, guided sport and commercial finfish regulatory proposals for the Southeast and Yakutat management areas. Alaska Board of Fisheries meeting. Ketchikan, AK. http://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.meetinginfo

ADF&G. 2006b. Summary of Actions: Alaska Board of Fisheries, Southeast and Yakutat finfish. Ketchikan, AK. January 22-February 1, 2006. http://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.meetinginfo

FSB. 2005. Transcripts of Federal Subsistence Board Proceedings, January 2005. Office of Subsistence Management FWS. Anchorage, AK.

FSB. 2007a. Transcripts of the Federal Subsistence Board Proceedings, January 10, 2007. Office of Subsistence Management, FWS. Anchorage, AK.

FSB. 2007b. Transcripts of the Federal Subsistence Board Proceedings, December 12, 2007. Office of Subsistence Management, FWS. Anchorage, AK.

FSB. 2013. Transcripts of Federal Subsistence Board Proceedings, January 2013. Office of Subsistence Management FWS. Anchorage, AK.

SESRAC. 2007. Transcripts of the Southeast Alaska Subsistence Regional Advisory Council Proceedings, September , 2007 in Haines, Alaska. Office of Subsistence Management, FWS. Anchorage, AK.

SESRAC. 2004. Transcripts of the Southeast Alaska Subsistence Regional Advisory Council Proceedings. September, 2004. Office of Subsistence Management, FWS. Anchorage, AK.

SESRAC. 2012. Transcripts of the Southeast Alaska Subsistence Regional Advisory Council Proceedings, October, 2012 in Wrangell, Alaska. Office of Subsistence Management, FWS. Anchorage, AK.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Oppose FP17-14. Although the Council agreed that adopting this proposal will likely increase opportunities for subsistence users, the rationale for opposing was similar to the rationale cited when they opposed allowing the use of a bow and arrow for fishing; i.e., a concern with incidental mortalities, the poorly identified need for an additional gear type and an unknown but likely safety concern.

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

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-14: This proposal, submitted by David Adams, would authorize sling bow and fish arrow as legal gear for the subsistence harvest of pink salmon in federal public waters of the Southeast Alaska Area.

Background: Sling bows are slingshots that use rubber tubing to launch an arrow. There is no definition of this gear type in State regulations, although a similar gear type, Hawaiian sling, is defined in state sport fishing regulations (5 AAC 75.955(a)(50)(B)). The State generally has no conservation concerns regarding Southeast Alaska pink salmon stocks. However, because this gear type is lethal, a misidentified target or accidental hit on a species other than pink salmon would place the angler out of compliance with the gear type and harvest regulations for those species.

Impact on Subsistence Users: Few Southeast Alaska subsistence users target pink salmon for their subsistence salmon needs, and there are more efficient means of harvest already allowed under current subsistence regulations.

Impact on Other Users: This gear type could create safety concerns in areas where anglers are concentrated, potentially displacing other anglers.

Opportunities Provided by State: Pink salmon may be harvested in Southeast Alaska subsistence fisheries, although sling bow is not a legal (or defined) gear type. Household subsistence possession limits vary by management area as follows:

- Haines Management Area: 75 pink salmon and chum salmon combined; annual limit of 100 pink salmon and chum salmon combined.
- Juneau Management Area: 150 pink salmon; no annual limit.
- Sitka Management Area: 100 pink salmon; no annual limit.
- Petersburg-Wrangell Management Area: 100 pink salmon; no annual limit.
- Ketchikan Management Area: 150 pink salmon: no annual limit.

Recommendation: The State is OPPOSED to this proposal. A misidentified target or accidental hit on a fish species other than pink salmon would place the subsistence fisherman out of compliance with regulations for those species. Also, if passed, this proposal would increase disparity between federal and state allowable gear, adding complexity for the public.

FP17-01 Executive Summary	
General Description	Proposal FP17-01 requests a new regulation be made to Subdistrict 5D to allow for harvest of salmon during Federally recognized fisheries closures, once the mid-range of the Canadian Interim Management Escapement Goal (IMEG) and the Total Allowable Catch (TAC) goals for Chinook Salmon are projected to be achieved in the Yukon River at the Eagle sonar site. *Submitted by: Eastern Interior Alaska Subsistence Regional Advisory Council.*
Proposed Regulation	Yukon – Northern Area Salmon *§___.27(i)(3) (i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. 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 paragraph (e)(3) of this section.* *(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), unless superseded by a Federal Special Action.* ***(xiii)(B) In Subdistrict 5D you may take salmon for subsistence use once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are projected to be achieved.***
OSM Preliminary Conclusion	**Support with modification to** change the wording in the proposed regulation from "projected to be achieved" to "achieved," and to specify that the Federal in-season manager is the person to declare when the IMEG and TAC are achieved.
OSM Conclusion	**Support with modification to** change the wording in the proposed regulation from "achieved" to "projected to be achieved". §___.27 (i)(3) Subsistence taking of fish **(xiii)(B) In Subdistrict 5D, during in-season subsistence fisheries closures, you may take salmon for subsistence use once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are**

	projected to be achieved, and announced by the Federal in-season manager.
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Support**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Seward Peninsula Subsistence Regional Advisory Council Recommendation	**Support**
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Interagency Staff Committee Comments	**See page 83**
ADF&G Comments	**Oppose**
Written Public Comments	None

STAFF ANALYSIS
FP17-01

ISSUE

Proposal FP17-01, submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council (Council), requests a new regulation be established in Subdistrict 5D to allow harvest of salmon during Federally recognized fisheries closures, once the mid-range of the Canadian Interim Management Escapement Goal (IMEG) and the Total Allowable Catch (TAC) goal for Chinook Salmon are projected to be achieved in the Yukon River at the Eagle sonar site.

DISCUSSION

Subdistrict 5D consists of the Yukon River drainage from the Alaska Department of Fish & Game (ADF&G) regulatory markers located approximately two miles downstream from Waldron Creek upstream to the United States-Canada border. The Federal public waters in this area include Yukon Flats National Wildlife Refuge and the Yukon – Charley Rivers National Preserve. A majority of Subdistrict 5D along the Yukon River is within or adjacent to Federal public lands.

Subsistence fishing on the Yukon River in Subdistrict 5D is open seven days a week with no harvest limit for salmon, unless closed by the in-season managers for conservation purposes. The Council proposes that if an in-season closure for Chinook Salmon is put in place in Subdistrict 5D, the closure will be lifted for Federally qualified subsistence users once the mid-range of the Canadian IMEG (currently 42,500 – 55,000 Chinook) and the TAC goal are projected to be achieved. This proposal, if adopted, would provide an opportunity for Federally qualified subsistence users to harvest both Chinook and fall Chum salmon in Subdistrict 5D when the Federal in-season manager projects the Chinook Salmon passage will reach 48,750 fish at the Eagle sonar site.

The Council's motivation to submit this proposal resulted from the events of the 2015 season, when the IMEG was exceeded (84,015 Chinook Salmon), but the subsistence salmon fishery in Subdistrict 5D remained closed.

Existing Federal Regulation

Yukon-Northern Area – Salmon

§___.27 (i)(3) Subsistence taking of fish

> *(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. 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 paragraph (e)(3) of this section.

(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), unless superseded by a Federal Special Action.

Proposed Federal Regulation

Yukon-Northern Area – Salmon

§___.27 (i)(3) Subsistence taking of fish

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. 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 paragraph (e)(3) of this section.

(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), unless superseded by a Federal Special Action.

(xiii)(B) In Subdistrict 5D you may take salmon for subsistence use once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are projected to be achieved.

Existing State Regulation

5 AAC 01.210. Fishing Seasons and Periods – Yukon Area

(a) Unless restricted in this section, or in 5 AAC 01.220 – 5 ACC 01.249, salmon may be taken in the Yukon Area at any time.

(b) When there are no commercial salmon fishing periods, the subsistence fishery in the Yukon River drainage will be based on a schedule implemented chronologically, consistent with migratory timing as the salmon run progresses upstream. The commissioner may alter fishing periods by emergency order, if the commissioner determines that preseason or in-season run indicators indicate it is necessary for conservation purposes. The fishing periods for subsistence salmon

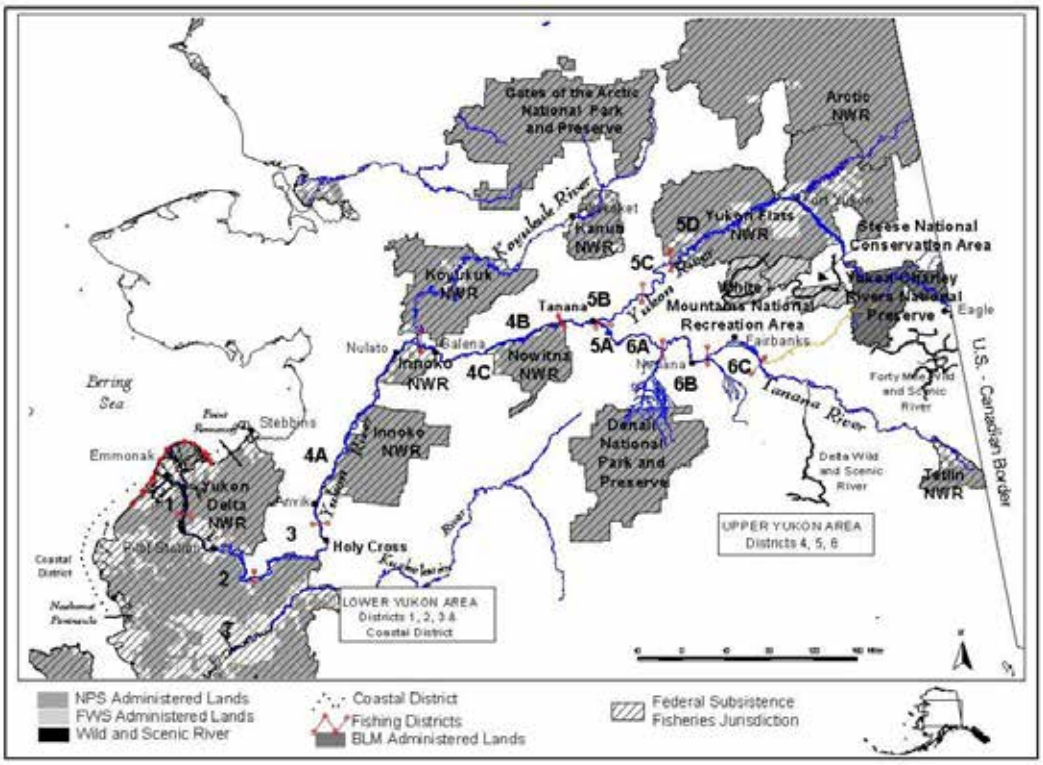
fishing in the Yukon River drainage will be established by emergency order as follow:

(1) Coastal District, Koyukuk River, Kantishna River, and Subdistrict 5D: seven days per week.

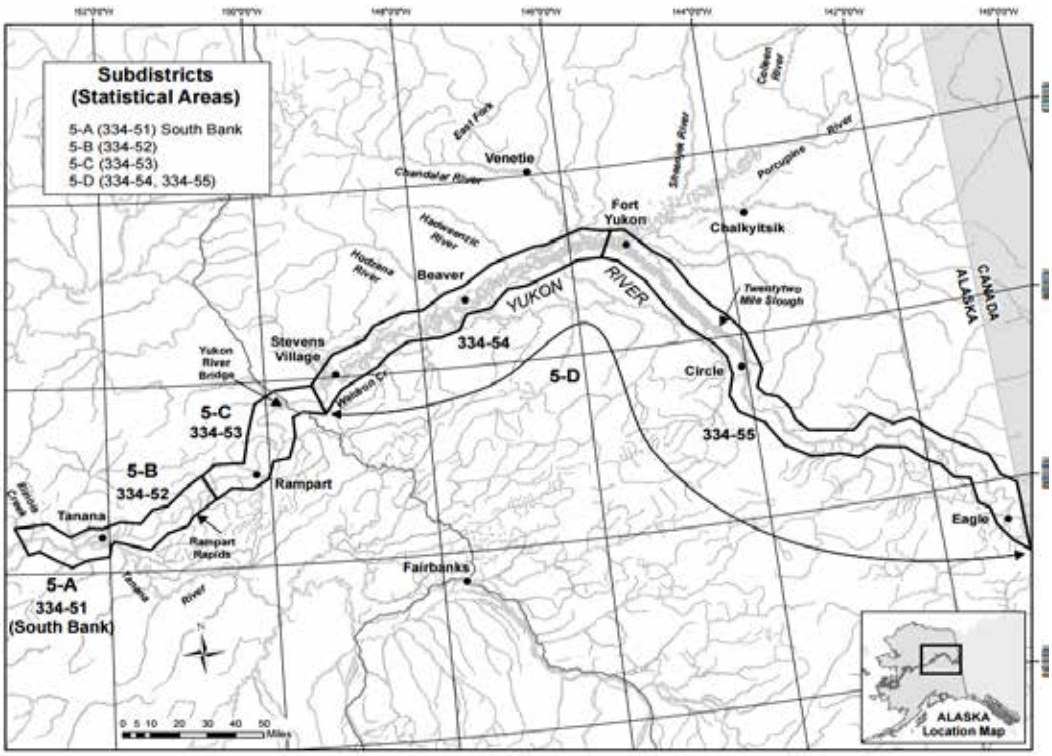
(c) Notwithstanding the provisions of (A) and (B) of this paragraph, if the commissioner determines it is necessary to ensure that reasonable opportunity for subsistence uses is being provided, the commissioner may, by emergency order, open a subsistence fishing period that may occur during times that are before, during, and after a commercial salmon fishing period.

Extent of Federal Public 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 public waters addressed by this proposal are those portions of the Yukon River located within, or adjacent to, the external boundaries of the Yukon Flats National Wildlife Refuge and the Yukon – Charley Rivers National Preserve. Subdistrict 5D consists of the Yukon River drainage from the Alaska Department of Fish & Game (ADF&G) regulatory markers located approximately two miles downstream from Waldron Creek upstream to the United States-Canada border (**Map 1 and Map 2**).



Map 1. Area map of Subdistrict 5D and surrounding Federal lands (ADF&G 2016).



Map 2. Subdistrict 5D map close up with villages (ADF&G 2016).

Customary and Traditional Use Determinations

For salmon other than fall Chum Salmon, residents of the Yukon River drainage, and the community of Stebbins have a customary and traditional use determination. For fall Chum Salmon, residents of the Yukon River drainage and the communities of Chevak, Hooper Bay, Scammon Bay and Stebbins have a customary and traditional use determination. For freshwater fish species (other than salmon) residents of the Yukon Northern Area have a customary and traditional use determination within the Yukon River Drainage.

Regulatory History

Since 2001, the Yukon River Chinook Salmon stock has been categorized as a "stock of yield concern" by the Alaska Board of Fisheries in accordance with the State's *Policy for the management of sustainable salmon fisheries.* This designation identifies a chronic inability to maintain expected yields or harvestable surpluses above a stock's escapement needs despite restrictive management actions. Directed commercial fishing for Yukon River Chinook Salmon has been discontinued since 2007 and subsistence fishing opportunities have become increasingly more restrictive in an effort to conserve Chinook Salmon.

For management purposes, the summer season refers to the fishing associated with Chinook and summer Chum Salmon migrations and the fall season refers to the fishing associated with the fall Chum and Coho salmon migrations. During the fishing season, management is based on preseason projections and in-season run assessments. Since 1995, the main river sonar project at Pilot Station has provided in-season estimates of salmon passage for fisheries management. The level of commercial, subsistence, and personal use harvests can be adjusted through the use of State emergency orders and Federal special actions to manage time, gear, and area of openings and closures. For Chinook Salmon, since 2001 there has been an action plan developed through a public process that includes goals, objectives, and provisions necessary to rebuild Chinook Salmon runs (Munro and Tide 2014).

The Canadian IMEG of 42,500– 55,000 Chinook Salmon is based on the Eagle sonar **(Figure 1)**. In order to meet this goal, the passage at the Eagle sonar station must include a minimum of 42,500 fish for escapement, provide for a subsistence harvest in the community of Eagle upstream of the sonar (approximately 1,000–2,000 fish), and incorporate Canadian harvest sharing as dictated in the US/Canada Yukon River Treaty which is typically 20–26% of the TAC (ADF&G 2014a). Subsistence fishers have had very limited opportunities to harvest Chinook Salmon in the Yukon River drainage during recent years of low abundance. The 2014 season was "the most conservatively managed Chinook Salmon season in recent history" (ADF&G 2014a). For example, District 5 subsistence fishers were not allowed to use greater than 4-inch mesh-size gillnets for up to 45 days in summer 2014 (ADF&G 2015b). Management of the Yukon River salmon fishery is complex due to the (1) inability to determine stock-specific abundance and timing, (2) overlapping multi-species salmon runs, (3) efficiency of methods and means, (4) allocation issues, and (5) the immense size of the Yukon River drainage. Currently the Yukon River fisheries are managed chronologically to protect the main pulse of the Chinook Salmon run. Federal in-season managers look to manage the fisheries in concordance with pre-season management goals for the predicted year. When opportunities arise for subsistence harvest, in-season managers liberalize the fishery to allow more harvest as was observed in 2016.

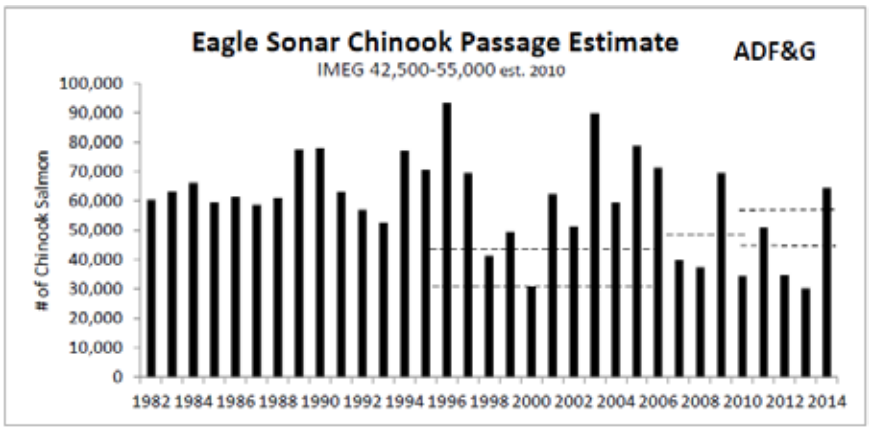


Figure 1. Eagle sonar Chinook passage estimates from 1982-2014 (ADF&G 2014b).

Current Events Involving the Species

The 2013 Chinook Salmon run was one of the poorest runs on record. In response, fishery managers reduced subsistence fishing opportunity to limit harvests to approximately 25% of historical levels. However, even with reduced subsistence harvests, the lower bound of the Canadian IMEG (42,500 – 55,000 fish) was not met and the estimated escapement past the Eagle sonar was 30,752 Chinook Salmon. In 2014 and 2015, the Chinook Salmon fishery was also managed conservatively. Chinook Salmon escapement into Canada exceeded the upper bound of the Canadian IMEG both years, at 63,462 and 84,015 fish, respectively. The 2016 drainage-wide Chinook Salmon outlook was for a run size of 130,000 to 175,000 fish past the Pilot Station sonar site (**Figure 2**; ADF&G 2016b). The preseason forecast for the Yukon River main stem Chinook Salmon return was predicted to be below-average and in this regard, a conservative management approach was suggested in order to achieve the IMEG (JTC 2016).

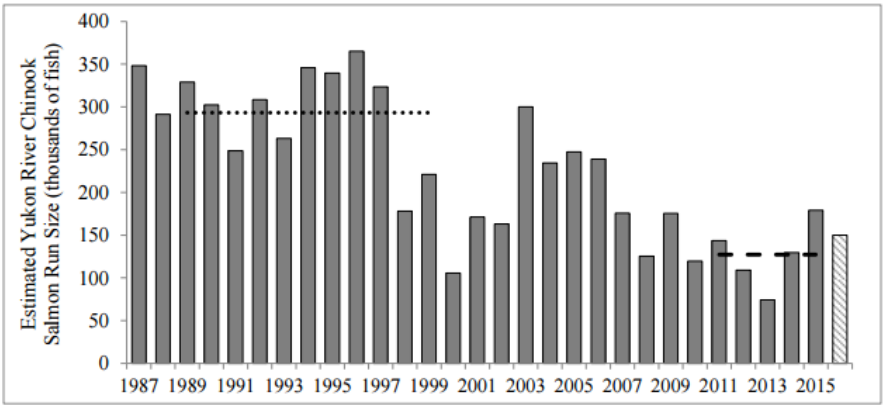


Figure 2. The 2016 dashed bar represents the approximate midpoint of the projected outlook range of 130,000 to 175,000 Chinook salmon at Pilot Station sonar. The dotted line represents the historical average run size and the dashed line is the recent 5 – year average run size (ADF&G 2016).

As the 2016 season started, in-season fisheries managers proceeded to manage the Chinook fishery with caution and acted in a conservative manner in which they described in their 2016 forecast management plan. As the season progressed and the sonar escapement at Eagle was predicted to be met, in-season fisheries managers began to liberalize the fisheries to increase opportunities for subsistence purposes.

During the early 2016 season, ADF&G and the U.S. Fish and Wildlife Service (USFWS) presented a news release with specific management actions for Subdistrict 5D to restrict gear size of gillnets during specific times. ADF&G management actions for Subdistrict 5D were as follows (**Table 1**):

Table 1. News releases of the in-season management actions for the 2016 season.

Area of 5D	Date	Action	Season	Methods	New Release
LOWER	31-May	Open 24 hrs a day	Seven days / week	Fish wheels or gillnets with mesh 7.5 inches or smaller	(NR #7)
MIDDLE					
UPPER					
LOWER	19-Jun	Open 24 hrs a day	Seven days / week	Fish wheels or gillnets with mesh 6 inches or smaller	(NR #17)
MIDDLE	22-Jun	Open 24 hrs a day			(NR # 27)
UPPER	24-Jun	Open 24 hrs a day			(NR # 27)
LOWER	28-Jun	CLOSE			(NR #29)
MIDDLE	1-Jul	CLOSE			(NR #29)
UPPER	3-Jul	CLOSE			(NR #55)
LOWER	11-Jul		One 12-hour period	Fish wheels or gillnets mesh size 6 inches or smaller	(NR #55)
MIDDLE	13-Jul				(NR #55)
UPPER	15-Jul				(NR #55)
LOWER	17-Jul		One 24-hour period	Fish wheels or gillnets mesh size 6 inches or smaller	(NR #60)
MIDDLE	17-Jul				(NR #60)
UPPER	15-Jul		One 36-hour period		(NR #60)
LOWER	20-Jul		3.5 day period	Fish wheels or gillnets mesh size 6 inches or smaller	(NR #61)
MIDDLE	20-Jul				(NR #61)
UPPER	20-Jul				(NR #61)
5D	19-Jul		4.5 day	Fish wheels or gillnets mesh size 6 inches or smaller	(NR # 64)
5D	24-Jul	Open 24 hrs a day	One 24-hour period	Fish wheels or gillnets mesh size 7.5-inch or smaller	(NR # 65)
5D	25-Jul	Open 24 hrs a day	Seven days / week	Fish wheels or gillnets mesh size 6 inches or smaller	(NR # 65)
5D	26-Jul	Open 24 hrs a day	Seven days / week	Fish wheels or gillnets mesh size 7.5-inch or smaller	(NR #67)

Biological Background

Recent analyses indicate that Yukon River Chinook Salmon stocks appear to be in the 8th year of a multi-year period of low productivity. Historically, the Yukon River Chinook Salmon stocks showed periods of above-average abundance (1982-1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013). The minimum spawning escapement target was not achieved in 5 of the past 9 years (Department of Fisheries and Oceans Canada 2016). Presently, the Chinook Salmon escapement at the Eagle sonar site (68,010 fish 8/4/2016) has met the Canadian IMEG and opportunities for subsistence have been provided through in-season management actions. During 2012 and 2013, the Eagle sonar escapement experienced the lowest returning adults in history (**Table 2**). It is expected that the progeny of the 2012 and 2013 year class will be weak due to low escapement. If this is a true, the expected run strength of the 2017 through 2019 year class might be weak and management will likely remain cautionary.

Table 2. Eagle sonar Chinook Salmon escapement for the past four years (2012 – 2015).

Cumulative 2015	Cumulative 2014	Cumulative 2013	Cumulative 2012
84,015	**63,462**	**30,725**	**34,747**

Harvest History

Chinook Salmon subsistence harvests averaged approximately 50,000 fish annually in the Alaskan portion of the Yukon River from 1989 - 1997. However, subsistence harvest levels of Chinook Salmon have declined since 1997 due to declining run abundance and resultant harvest restrictions. In recent years, subsistence fishing has increasingly targeted other species of fish. In order to allow continued subsistence opportunity throughout the season, subsistence fishing activity has been managed to avoid Chinook Salmon and allow the harvest of other fish species.

The Yukon River drainage in District 5 includes the communities of Stevens Village, Birch Creek, Beaver, Fort Yukon, Circle, Central, Eagle, Venetie and Chalkyitsik. District 5 harvested an estimated 5-year average (2001–2005) of 13,969 Chinook Salmon annually and 2006 – 2010 averaged 11,252 Chinook Salmon (Jallen et al. 2012). This pattern coincided with a decrease in the other 6 Yukon River management districts. In District 5, only 18% of the surveyed subsistence households responded that their Chinook Salmon needs (76% to 100%) were met, the lowest of any U.S. Yukon River district (Jallen et al. 2012). Declines in harvest of Chinook Salmon have been noticeably observed in four communities (Fort Yukon, Beaver, Circle, and Eagle) of Subdistrict 5D (**Figure 3**). The preliminary harvest estimates of Chinook, Chum (both summer and fall), and Coho salmon were below the State's amounts necessary for subsistence levels (JTC 2016). The estimated 16-year harvest of Chinook Salmon for the following communities; (Beaver, 983 fish; Circle, 1,045 fish; Eagle, 1,722 fish; and Fort Yukon, 3,495 fish). From 1992 to 2007, the communities of Stevens Village, Birch Creek, Beaver, Fort Yukon, Circle, Eagle, and Venetie harvested an estimated 20% of all the Alaskan villages subsistence Chinook harvest (Fall et al. 2012).

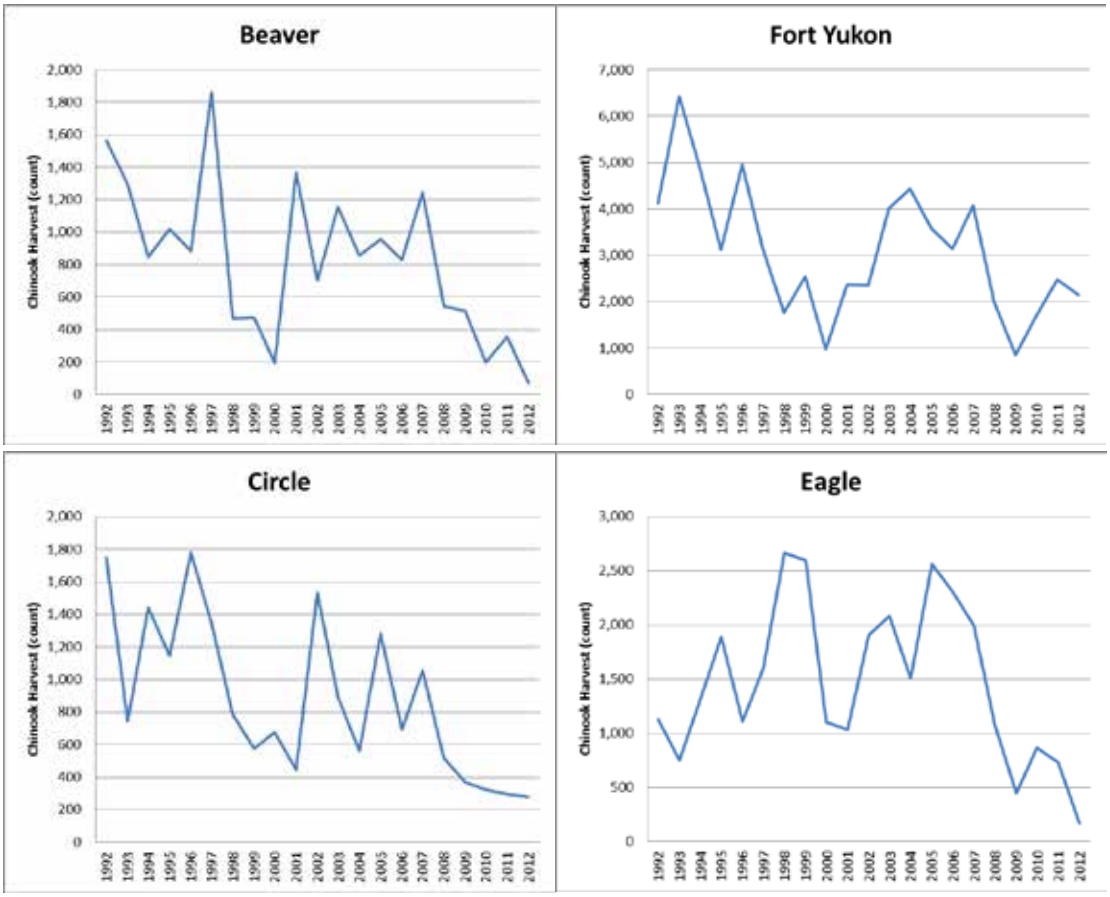


Figure 3. 20 year trends of four communities Chinook Salmon harvest in Subdistrict 5D.

Commercial harvest

Commercial fishing has been closed since 2007 for Chinook Salmon and there is not an anticipated fishery for 2016 on the Yukon River in Subdistrict 5D. Currently, there is one permit holder for commercial fishing in Subdistrict 5D (Firmin 2016).

Cultural Knowledge and Traditional Practices

In the Yukon River drainage, people who are members of Yup'ik Eskimo and *Deg Hit'an, Doy Hit'an*, Holikachuk, *Denaakk'e* (Koyukon), *Gwich'in*, *Han*, Tanana, Tanacross, or Upper Tanana Athabaskan cultural groups live in the 61 rural communities with a customary and traditional use determination for Chinook Salmon in the Yukon River (**Table 3**). Settlement patterns since 1900 have been characterized by movement from seasonal camps to permanent settlements located at important harvesting sites, around trading posts and missions, and to send children to school. Others have moved to the area to work in education, government, mining, trade, and other industries (Clark 1981; Fienup-Riordan 1984, 1986; Haynes and Simeone 2007; Hosley 1981; Mishler and Simeone 2004; Nelson 1983; Slobodin 1981; Wolfe and Scott 2010; VanStone 1984; VanStone and Goddard 1981).

Another force of change affecting salmon harvest levels in the upper Yukon River drainage was the use of salmon to feed sled dogs.

> The period from 1900 to 1940 encompasses the peak sled dog era in the Yukon River drainage . . . virtually every family maintained a small number of sled dogs . . . . In the 1930s airplanes began to replace commercial dog teams for the movement of freight and mail but sled dogs continued to provide the bulk of winter transportation for individuals and families throughout the Yukon River drainage (Andersen and Scott 2010:2–5).

By the 1970s snowmobiles had largely replaced the family dog team. Some people continue to keep dogs. In the upper Yukon River drainage no one reported harvesting Chinook Salmon for dog food in 2009, 2010, or 2011, nor during a survey conducted in 2008 that included the communities of Tanana and Fort Yukon (Andersen and Scott 2010; Jallen, Decker, and Hamazaki 2012; Jallen, Ayers, and Hamazaki 2012; Jallen and Hamazaki 2011). In 2011, an estimated 40,178 salmon were harvested for dog food in the upper Yukon River drainage (from Tanana, in District 5A, to the Canada Border, in Subdistrict 5D). The majority of this harvest was fall Chum Salmon, but smaller amounts of summer Chum Salmon and Coho Salmon were also harvested to feed dogs.

In contrast to villages in the lower and middle river districts, the populations of communities on the upper Yukon River drainage (from Tanana, in Subdistrict 5A, to the Canada border, in Subdistrict 5D) peaked between 1970 and 2000 and has since declined; the population increased by only 1.5% in the 50 years between 1960 and 2010 (**Table 3**, ADCCED 2014). Upper Yukon villages are generally described as culturally affiliated with Koyukon*, Gwich'in*, and *Han* Athabascans (Clark 1981, Hosley 1981, Mishler and Simeone 2004, Nelson 1983, Slobodin 1981, Wolfe and Scott 2010, VanStone and Goddard 1981). The communities of Eagle City, Chicken, and Central were established as gold mining supply sites; however, most miners had left the area by 1910. Alaska Native and non-Native residents worked on steamboats, in mines, and in wood-chopping camps, as well as on traplines. In the 1970s land auctions attracted new residents to Eagle. Gold miners continue to return to the area seasonally. Roads have linked Eagle on the Yukon with the Alaska Highway since the 1950s and, the Steese Highway connected the Yukon River community of Circle with Fairbanks in 1927. The Dalton Highway, or Haul Road, from Livengood to Deadhorse crosses the Yukon River between the communities of Rampart and Stevens Village (Crow and Obley 1981, Hosley 1981).

A significant factor affecting the management of salmon fisheries in the upper Yukon River drainage is the three highway access points. Federal regulations do not affect the State fisheries at the three highway access points because none are located on Federal public lands. The following is a description of salmon fishing patterns of communities that harvest salmon in Subdistrict 5D.

<u>Residents of Eagle and Eagle Village</u>

People rely on large quantities of salmon, including Chinook Salmon, that they harvest from the upper Yukon River drainage in Subdistrict 5D (Jallen, Decker, and Hamazaki 2012). More fall Chum Salmon are harvested than other salmon species. Historically, fish, especially salmon, were a vital resource for *Han* people living in the Upper Yukon area encompassing Subdistrict 5D (Mishler and Simeone 2004).

Chinook Salmon pass Eagle Village beginning around July 1 and continue through early August. After a short break, the fall Chum Salmon run begins in mid-August and continues to late September. There are fishwheels harvesting salmon from Eagle Village to the Canadian border. "Up until the 1970s, *Han* families usually moved to their fish camps while the salmon were running" (Mishler and Simeone 2004:60). They processed Chinook Salmon for human consumption and Chum Salmon for dog food. They cut salmon fillets into long strips and smoked salmon, kippered and froze salmon, and smoked salmon eggs.

Residents of Chicken

The community of Chicken is located on the Taylor Highway on a tributary of the Fortymile River, about 95 highway miles from Yukon River at the community of Circle. Salmon are not observed in the Fortymile River drainage in Alaska except a few Chum Salmon below the Taylor Highway bridge that crosses the Fortymile River about 46 miles from Chicken. No subsistence harvests of salmon have been reported by Chicken residents (Jallen, Decker, and Hamazaki 2012).

Residents of Beaver, Birch Creek, Circle, Fort Yukon, Venetie, Chalkyitsik, and Arctic Village

Most residents harvest more fall Chum Salmon than other salmon species from the upper Yukon River drainage (Jallen, Decker, and Hamazaki 2012). Five groups, or bands, of *Gwich'in* were centered historically in the Upper Yukon-Porcupine region of Alaska (Slobodin 1981). In 1983, Caulfield described the harvest of fish. "Traditionally fish were one of the most reliable and abundant food resources in the Upper Yukon-Porcupine region, and this fact remains true today . . . . Harvest of fish was a major component of the annual cycle for bands" (Caulfield 1983:36).

> Salmon are harvested primarily along the Yukon River . . . . King salmon arrive at Fort Yukon during the end of June and are generally caught . . . during the early part of July. Chum Salmon arrive in August . . . . The most intensive fishing activity for Chums takes place in late August and early September . . . . King salmon are extremely oily and are usually cut into strips and hung to dry in smokehouses. King salmon heads are often split, dried, and used in soups . . . . Several thousand Chums may be split and dried on racks in the fall for dog food (Caulfield 1983:74).

Additionally, "Chalkyitsik has traditionally been an important fishing site" located on the Salmon Fork of the Black River (Caulfield 1983:127). "The main reason for the . . . settlement was the presence of an abundant source of whitefish which run down the nearby creek during the fall" (Nelson 1973:18). Traditional territory included the Porcupine and Black rivers. Some Chum Salmon were gaffed in the fall at spawning areas.

Residents of Arctic Village generally harvest salmon from the Chandalar River drainage above Venetie (ADF&G 1986; Caulfield 1983; Jallen, Decker, and Hamazaki 2012). Fall Chum Salmon account for the majority of salmon returning to the Chandalar River and begin to arrive in late July or early August. "Summer Chum Salmon, while not as abundant, have been intermittently observed in the Chandalar River.

. . . While Chinook Salmon are known to spawn in the Chandalar River, their actual abundance is unknown" (Melegari and Osborne 2008:1).

Residents of Central

Central residents harvest some salmon, primarily Chinook Salmon (Jallen, Decker, and Hamazaki 2012). Central is located on the upper reaches of Birch Creek and along the Steese Highway that connects Fairbanks to the community of Circle on the Yukon River, 33 highway miles away. They harvest salmon from the mainstem of the Yukon River. Central was a mining supply site and telegraph maintenance station in the 1890s and early 1900s. Mining activity in the area continues today. Central also provides services to area residents (Hosely 1981; Jallen, Decker, and Hamazaki 2012).

Residents of Stevens Village

People harvest more Chinook or fall Chum salmon than summer Chum or Coho salmon (Jallen, Decker, and Hamazaki 2012). Chinook Salmon are generally available in the area from late June or early July through July and in some years into August. Late-run Chinook Salmon are mixed with summer Chum Salmon. Coho Salmon arrive by September. In 1984, Sumida (1986) wrote that all Chinook Salmon were prepared for human consumption, and only some entrails, backbones, and other discarded parts were fed to dogs. Summer Chum Salmon were used primarily for dog food, some fall Chum Salmon were prepared for human consumption and some were fed to dogs, and most Coho Salmon were used for dog food and some were prepared for human consumption. Most fish camps were located along the Yukon River mainstem from just below the Dalton Highway bridge (about 27 river miles downriver) to several miles above Stevens Village. Chinook Salmon were desired by all households in the community. They were cut, smoked, and dried in strips, frozen, salted, and/or canned. Fish heads and roe were sometimes processed for later use. Summer Chum and Coho salmon were selectively cut for human consumption or dog food based in part on the quality of the fish, number of dogs, and the number of Chinook Salmon already harvested. Salmon for dog food were handled with less care (Sumida 1986). In 2007, about 40% of Stevens Village households had fish camps where they processed and smoked salmon. Most fishing sites were located downriver from the community about halfway to the Dalton Highway bridge where a few fish camps had seasonal occupants from outside the area. The average use of a particular fish camp site by a family was 51 years. Sled dogs were common in Stevens Village (Wolfe and Scott 2010). Wolfe and Scott (2010) quoted from a Stevens Village resident describing the traditional use area and the impact of the Dalton Highway bridge.

> You know all these villages of the Interior originally were separate bands . . . . Every band or village had its traditional hunting and fishing ground that the other bands recognized. Traditionally, the Stevens Village people's traditional use area was forty miles upriver [from the Yukon bridge] halfway to Beaver Village, around Marten Island, then north back to the foothills, south to Hess Creek. On the western edge, the traditional boundary was at the Ray River area, which is now where the Dalton Highway crosses the Yukon. Traditionally, at that Ray River area for a few miles on either side was like an overlap of Rampart people and Stevens Village people.

> Now and more contemporary times, with the advent of state fishing regulations and with this road, that traditional type area is not recognized anymore [by outsiders]. You have nonlocal Natives will come in and set up camp right off the road, like you saw last night. In more traditional times, they would ask permission from the tribe of whose area they were in. That's kind of still a little bit in practice, but not so much, because nowadays people travel, and even Native peoples kind of abide by the state and federal hunting and fishing boundaries and permitting system rather than the traditional form of governance over traditional tribal fishing and hunting boundaries (Wolfe and Scott 2010:28–29).

Residents of Rampart

Rampart is located in District 5C downriver from Subdistrict 5D. People harvest more Chinook and fall Chum salmon than summer Chum or Coho salmon (Jallen, Decker, and Hamazaki 2012). People have fish camps up to the Dalton Highway bridge (in Subdistrict 5D). A stretch of river below the bridge is used by residents of Stevens Village and Rampart. Wolfe and Scott (2010) reported that in 2007 five fish camp families in the area below the bridge were dual residents of Rampart and Fairbanks and four fish camps were occupied by people without connections to the villages.

Table 3. The number of people in the customary and traditional use determination for Chinook Salmon in Subdistrict 5D of the upper Yukon River drainage, by community and Fishery Management District, 1960-2010.

Community	1960	1970	1980	1990	2000	2010	2010 number of households
Tanana city	349	120	388	345	308	246	100
Rampart CDP	49	36	50	68	45	24	10
Stevens Village CDP	102	74	96	102	87	78	26
Beaver CDP	101	101	66	103	84	84	36
Fort Yukon city	701	448	619	580	595	583	246
Chalkyitsik CDP	57	130	100	90	83	69	24
Arctic Village CDP	110	85	111	96	152	152	65
Venetie CDP	107	112	132	182	202	166	61
Birch Creek CDP	32	45	32	42	28	33	17
Circle CDP	41	54	81	73	100	104	40
Chicken CDP	0	0	0	0	17	7	5
Central CDP	28	26	36	52	134	96	53
Eagle Village CDP	0	0	54	35	68	67	31
Eagle city	92	36	110	168	129	86	41
District 5 subtotal	**1,769**	**1,267**	**1,875**	**1,936**	**2,032**	**1,795**	**755**

CDP=Census Designated Place. Blank cell=information is not available. Source: ADCCED 2014.

Effects of the Proposal

If FP17-01 were adopted, Federally qualified subsistence users would be allowed to harvest salmon during closures when the Federal in-season managers project that the midrange of the Canadian IMEG and the TAC goal are projected to be achieved. In-season managers use a variety of tools to assess the abundance of salmon in the Yukon River; however, the estimates do come with uncertainty. Adoption of FP17-01 would ensure timely access to harvest fish in the event the in-season managers delay opportunities. Due to the large size of Subdistrict 5D, run timing is critical for the lower Subdistrict 5D to have opportunities to fish when the Canadian obligations have been achieved. The harvest in Subdistrict 5D has shown to be relatively low in the past and should not significantly impact the population of either Chinook Salmon or fall Chum Salmon if this regulation were adopted. The communities of Eagle, Fort Yukon, Circle, and Beaver have all shown declines in harvest and providing an ensured opportunity to harvest salmon could benefit all of the communities within Subdistrict 5D. It is also likely that an increase in participation from the subsistence users could develop due achieving the "target" with fulfilling Canadian obligations and having a known benchmark to begin fishing.

If FP17-01 were not to be adopted, it is likely that the declining trend of harvest among communities in Subdistrict 5D would persist. Subsistence harvesters might be less inclined to put in the effort to build and assemble fish wheels when waiting for the in-season manager's decision to open the fishery. Jallen et al. has shown through previous harvest surveys that subsistence needs are rarely met for District 5.

Federal in-season managers would still retain the management actions in a chronological fashion as they have done in the past. Eagle sonar estimates are gathered daily and when the Canadian IMEG has been achieved, it is known almost instantaneously. This information can be relayed via teleconference and it is likely that the fishery for Subdistrict 5D would be opened shortly after the Federal in-season manager announces the mid-range of the Canadian IMEG and TAC have been achieved.

OSM PRELIMINARY CONCLUSION

Support FP17-01 **with modification** to change the wording in the proposed regulation from "projected to be achieved" to "achieved," and to specify that the Federal in-season manager is the person to declare when the IMEG and TAC are achieved.

The modified regulation should read:

> **Yukon-Northern Area – Salmon**
>
> *§___.27 (i)(3) Subsistence taking of fish*
>
> *(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. 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 paragraph (e)(3) of this section.

(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), unless superseded by a Federal Special Action.

(xiii)(B) In Subdistrict 5D, during in-season subsistence fisheries closures, you may take salmon for subsistence use once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are ~~projected to be~~ achieved, and announced by the Federal in-season manager.

Justification

Adoption of this proposal with modification could result in additional harvest opportunity for Federally qualified subsistence users in Subdistrict 5D in times of Chinook Salmon conservation. Estimates of in-season run strength usually have a high degree of uncertainty, so it would be prudent to wait until the Eagle sonar counts achieve the mid-range of the IMEG and TAC before lifting the closure to Federally qualified subsistence users. As was observed in the 2016 season, the in-season fisheries managers closely monitored and regulated the fishery until the IMEG was predicted to be met. At that point, the fishery was liberalized to further provide more subsistence opportunity for subsistence purposes, drawing in the question if the FP17-01 regulatory proposal is needed if the in-season managers plan to open the fishery when the IMEG and TAC is predicted to be met. The primary cause of concern from the Council is to have ensured opportunity as soon as the Canadian obligations have been fulfilled. Some years, such as 2015, the Canadian obligations were met while the fishery remained closed, which prompted concern about the continued access to the fishery in future years when the Canadian obligations are met.

ANALYSIS ADDENDUM

OSM CONCLUSION

Support FP17-01. The regulation should read:

§___.27 (i)(3) Subsistence taking of fish

***(xiii)(B)* In Subdistrict 5D, during in-season subsistence fisheries closures, you may take salmon for subsistence use once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are projected to be achieved, and announced by the Federal in-season manager.**

Justification

After further discussion with the Yukon River Federal in-season manager and the affected Subsistence Regional Advisory Councils, the OSM preliminary conclusion to support FP17-01 with modification was

found to be more restrictive than the original proposal. Considering the amount of time needed for in-season managers to determine both IMEG and TAC the modified proposal could possibly limit any Chinook Salmon harvest. If a Federal subsistence fishery was opened in Subdistrict 5D only after achieving the IMEG and TAC were achieved, it is possible most or all of the Chinook Salmon could have already migrated through the district. The original proposal language allows more flexibility while leaving the primary responsibility for conservation lies the Federal in-season manager to monitor the abundance of Chinook Salmon through the projected escapement estimates. The Federal in-season manager would still retain authority for restrictions and closures to protect Chinook Salmon during times of low Chinook runs.

LITERATURE CITED

ADCCED (Alaska Department of Commerce, Community, and Economic Development). 2014. Community database online. http://commerce.alaska.gov/cra/DCRAExternal/community., accessed September 8, 2014. Div. of Community and Regional Affairs, Juneau, AK.

ADF&G (Alaska Department of Fish and Game). 1986. Subsistence use of fish, wildlife, and plants. Alaska Habitat Management Guide, Reference Maps, Volume V: Western and Interior Regions. Div. of Habitat, Juneau, AK.

ADF&G. 2014a. 2014 preliminary Yukon River summer season summary. News Release issued October 8, 2014. Div. of Commercial Fisheries. Anchorage

ADF&G. 2014b. Alaska Sport Fishing Survey. http://www.adfg.alaska.gov/sf/sportfishingsurvey/index.cfm?ADFG=region.home, accessed November 2014. Anchorage.

ADF&G. 2016a. Alaska Yukon River Commercial Area Maps. http://www.adfg.alaska.gov/static/fishing/PDFs/commercial/yukon/yukon_district5.pdf, accessed June 2016. Anchorage.

ADF&G. 2016b. 2016 Yukon River Salmon Fisheries Outlook. Unpublished document type (season outlook). ADF&G. Anchorage, AK. 2

ADF&G. 2016c. 2016 Yukon River Summer Salmon Fishery News Release # 17 Subdistrict 5-D Subsistence Fishing Schedule. News Release issued June 15, 2016. Division of Commercial Fisheries. Anchorage

ADF&G. 2016d. 2016 Yukon River Summer Salmon Fishery News Release # 27 Summer Update # 5, Yukon Area Salmon Fishery. News Release issued June 20, 2016. Division of Commercial Fisheries. Anchorage

ADF&G. 2016e. 2016 Yukon River Summer Salmon Fishery News Release # 29 Subdistrict 5-D Subsistence Fishing Schedule. News Release issued June 24, 2016. Division of Commercial Fisheries. Anchorage

ADF&G. 2016f. 2016 Yukon River Summer Salmon Fishery News Release # 55 Subdistrict 5-D Subsistence Fishing Schedule. News Release issued July 7, 2016. Division of Commercial Fisheries. Anchorage

ADF&G. 2016g. 2016 Yukon River Summer Salmon Fishery News Release # 60 Subdistrict 5-D Subsistence Fishing Schedule. News Release issued July 13, 2016. Division of Commercial Fisheries. Anchorage

ADF&G. 2016h. 2016 Yukon River Summer Salmon Fishery News Release # 64 Subdistrict 5-D Subsistence Fishing Schedule. News Release issued July 19, 2016. Division of Commercial Fisheries. Anchorage

Andersen, D.B., and C.L. Scott. 2010. An update on the use of subsistence-caught fish to feed sled dogs in the Yukon River drainage, Alaska. Final Report 08-250. U.S. Fish and Wildlife Service, Office of Subsistence Management, Fisheries Resource Monitoring Program.

Caulfield, R.A. 1983. Subsistence land use in upper Yukon Porcupine communities, Alaska. ADF&G, Div. of Subsistence Tech. Paper No. 16. Juneau, AK. http://www.adfg.alaska.gov/techpap/tp016.pdf

Clark, A.M. 1981. Koyukon. Pages 582–601 in J. Helm, editor. Handbook of North American Indians, Vol. 6, Subarctic. Smithsonian Institution, Washington, D.C.

Crow, J.R., and P.R. Obley 1981. Han. Pages 506–513 in J. Helm, editor. Handbook of North American Indians, Vol. 6, Subarctic. Smithsonian Institution, Washington, D.C.

Department of Fisheries and Oceans Canada. 2016 Yukon River Salmon Update, Update release issued Thursday, July 28th, 2016. Canada

Fall, J.A. 2014. Alaska Subsistence and Personal Use Salmon Fisheries 2012 Annual Report. Tech. Paper No. 406. Anchorage, AK. Pages 1 – 265

Fienup-Riordan, A. 1984. Regional groups on the Yukon-Kuskokwim Delta. Pages 63–93 in Etudes Inuit Studies, Vol. 8.

Fienup-Riordan, A. 1986. When our bad season comes: a cultural account of subsistence harvesting and harvest disruption on the Yukon delta. Aurora. Alaska Anthropological Association Monograph Series No. 1. Anchorage.

Firmin, A., 2016, Vice Chair Eastern Interior Regional Advisory Council. Personal communication: phone. EIRAC, Fort Yukon, AK

Holly, Carrol., Estensen, Jeff., 2016. Yukon River Salmon Fisheries Outlook. ADF&G. Anchorage, AK 2 pp.
Jallen, D. M., S. K. S. Decker, and T. Hamazaki. 2012. Subsistence and personal use salmon harvests in the Alaska portion of the Yukon River drainage, 2011. Alaska Department of Fish and Game, Fishery Data Series No. 12-72, Anchorage.

Jallen, D. M., S. D. Ayers, and T. Hamazaki. 2012. Subsistence and personal use salmon harvests in the Alaska portion of the Yukon River drainage, 2010. Alaska Department of Fish and Game, Fishery Data Series No. 12- 18, Anchorage.

JTC (Joint Technical Committee of the Yukon River US/Canada Panel). 2016. Yukon River salmon 2015 season summary and 2016 season outlook. ADF&G, Division of Commercial Fisheries, Regional Information Report 3A13-02, Anchorage.

JTC (Joint Technical Committee of the Yukon River US/Canada Panel). 2013. Yukon River salmon 2012 season summary and 2013 season outlook. ADF&G, Division of Commercial Fisheries, Regional Information Report 3A16-01, Anchorage.

JTC (Joint Technical Committee of the Yukon River US/Canada Panel). 2016. Press Release. Unpublished report. Yukon River Panel. Alaska/Yukon.

Hosley, E.H. 1981. Intercultural relations and cultural change in the Alaska Plateau. Pages 546–555 in J. Helm, editor. Handbook of North American Indians, Vol. 6, Subarctic. Smithsonian Institution, Washington, D.C.

Jallen, D. M., S. K. S. Decker, and T. Hamazaki. 2012. Subsistence and personal use salmon harvests in the Alaska portion of the Yukon River drainage, 2011. ADF&G Fishery Data Series No. 12-72, Anchorage.

Jallen, D. M., S.D. Ayers, and T. Hamazaki. 2012. Subsistence and personal use salmon harvests in the Alaska portion of the Yukon River drainage, 2010. Alaska Department of Fish and Game, Fishery Data Series No. 12 -18, Anchorage.

Jallen, D. M., and T. Hamazaki. 2011. Subsistence and personal use salmon harvests in the Alaska portion of the Yukon River drainage, 2009. Alaska Department of Fish and Game, Fishery Data Series No. 11-07, Anchorage.

Melegari, J.L., and B.M. Osborne. 2008. Evaluation of sonar for enumeration of Chinook salmon in the in the Chandalar River, Yukon Flats National Wildlife Refuge, Alaska. U.S. FWS, Fairbanks, AK.

Mishler, C., and W.E. Simeone. 2004. Han: Hän Hwëch'in, people of the river. University of Alaska Press, Fairbanks, AK.

Munro, A. R., and C. Tide, editors. 2014. Run forecasts and harvest projections for 2014 Alaska salmon fisheries and review of the 2013 season. ADF&G Special Publication No. 14-10, Anchorage.

Nelson, R.K. 1973 Hunters of the Northern Forest: Designs for Survival among Alaska Kutchin. University of Chicago Press, Aldine, Chicago.

Schindler, D., C. Krueger, P. Bisson, M. Bradford, B. Clark, J. Conitz, K. Howard, M. Jones, J. Murphy, K. Myers, M. Scheuerell, E. Volk, and J. Winton. Arctic-Yukon-Kuskokwim Chinook Salmon Research Action Plan: Evidence of Decline of Chinook Salmon Populations and Recommendations for Future Research. Prepared for the AYK Sustainable Salmon Initiative (Anchorage, AK). v + 70 pp

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Support FP17-01. The Council discussed at length the sacrifices and efforts of communities along the Yukon River and that people in the Council member villages have forgone harvesting Chinook salmon for many years now. The Council noted that these efforts have helped to meet escapement goals. The Council received a briefing on overview of management in 5-D in comparison to the Yukon River overall in terms of restricted fishing times and no access to Summer Chum in the upper river. The Council supported this proposal noting that if the Canadian Interim Escapement Goal was projected to be met based on the Eagle River sonar count that it should not pose a conservation concern and could support this limited harvest opportunity.

Western Interior Alaska Subsistence Regional Advisory Council

Support FP17-01. The Council noted the proposal addresses a clear conservation concern. The intention is to allow for harvest especially after the midpoint return of the run has been achieved. The Council noted the proposal would be beneficial to some subsistence users. The Council also noted the recommendation may unnecessarily restrict other users. The Council acknowledged it is difficult to separate out other users and recommended, in this instance, thinking of the users as one group.

Seward Peninsula Subsistence Regional Advisory Council

Support FP17-01. The Council supported this proposal as written on the basin that if the Canadian escapement is met, then the Council would like to give Managers the flexibility to allow for subsistence opportunity.

Easter Interior Alaska Subsistence Regional Advisory Council

Support FP17-01. Recently users on the upper end of the river have borne the brunt of the conservation concerns for Chinook escapement and, unlike other users, they don't have a summer Chum fishery to meet their subsistence needs. Putting these provisions into regulation will remind managers to take these considerations into account. When Eagle Sonar estimates reach midrange or treaty obligation of 55,000 24/7 fishing should be allowed. If it remains worded as projected and estimates it gives managers flexibility as actual numbers are not achieved until after the season is over. This will allow more fishing time for upriver fishers rather than over escapement.

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.

While the intent of the proposal is to provide more fishing opportunity for Chinook Salmon in Sub-district 5D, the Board should consider how the proposed regulation would affect in-season management of the fishery. Placing more rigid management thresholds based on the mid-range of the Canadian Interim Management Escapement Goal (IMEG) and Total Allowable Catch (TAC) goals would reduce flexibility of Federal in-season manager to provide harvest opportunity. Use of the TAC as an in-season decision point poses additional complications because that value is not known until after the season.

The Board could vote against the recommendation of the Eastern Interior Alaska Subsistence Regional Advisory Council because there is not substantial evidence that this change would achieve the desired results. Further, reducing flexibility for in-season managers to provide harvest opportunity may negatively impact the satisfaction of subsistence needs.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-01: This proposal was submitted by the Eastern Interior Subsistence Regional Advisory Council and requests to allow harvest of Chinook salmon in Yukon River Subdistrict 5D once the mid-range of the Canadian Interim Management Escapement Goal (IMEG) and the Total Allowable Catch (TAC) goal for Chinook salmon are projected to be achieved in the Yukon River at the Eagle sonar site.

Background: Alaska Department of Fish and Game fishery managers aim to allow subsistence fishing once they are confident that the IMEG and harvest sharing objectives of the TAC will be met. The TAC is not finalized until after the season and is a projection until then. Because in-season projections change daily, there is no set date for a fishery opening. In 2015, two of the in-season assessment measures, Chinook salmon run abundance at the Pilot Station sonar and the genetic composition of the Chinook salmon run, indicated a weaker than expected Canadian-origin component of the run and thus the run size measured at the Eagle sonar far exceeded the in-season projections. Management opportunities throughout the river were very restrictive with almost no directed subsistence opportunity for Chinook salmon provided in districts 1 through 5.

Impact on Subsistence Users: This proposal could decrease flexibility in management and thus affect subsistence users by unnecessary closures to subsistence fishing. For example, if this proposal were in effect in 2015, more subsistence harvest could have been supported because the postseason assessment was that the TAC was achieved; however, during the season, the projection was lower and management was

restrictive, with almost no directed Chinook salmon subsistence opportunity. Adoption of this proposal may also affect Canadian users if the Canadian harvest share is not achieved once the TAC is determined postseason.

Impact on Other Users: Commercial and sport users may be impacted by unnecessary closures as well.

Opportunities Provided by the State: State regulations (5 AAC 01.210) direct that the subsistence fishery in the Yukon River drainage be based on a schedule implemented chronologically, consistent with migratory timing as the salmon run progresses upstream:

> 5 AAC 01.210. Fishing seasons and periods (a) Unless restricted in this section, or in 5 AAC 01.220 - 5 AAC 01.249, salmon may be taken in the Yukon Area at any time. (b) When there are no commercial salmon fishing periods, the subsistence fishery in the Yukon River drainage will be based on a schedule implemented chronologically, consistent with migratory timing as the salmon run progresses upstream. The commissioner may alter fishing periods by emergency order, if the commissioner determines that preseason or in-season run indicators indicate it is necessary for conservation purposes. The fishing periods for subsistence salmon fishing in the Yukon River drainage will be established by emergency order as follows: (1) Coastal District, Koyukuk River, Kantishna River, and Subdistrict 5-D: seven days per week;
>
> The Board of Fisheries has found that 45,500–66,704 Chinook salmon are reasonably necessary for subsistence in the Yukon Area.

Recommendation: The State is OPPOSED to this proposal as written, and to the amendment to change "projected to be achieved" to "achieved". Through in-season management expertise, the State and Federal manager work together to provide subsistence opportunity for District 5D, such as fishing on the early fish, ahead of the first pulse closure.

FP17-02 Executive Summary	
General Description	Proposal FP17-02 requests a new regulation be made to Subdistrict 5D to allow for harvest of early-run Chinook Salmon until arrival of the first pulse of Chinook Salmon. This would allow access to a small number of early-run Chinook Salmon while still protecting the main Chinook Salmon run. *Submitted by: Eastern Interior Alaska Subsistence Regional Advisory Council.*
Proposed Regulation	Yukon – Northern Area Salmon *§___.27(i)(3) (i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. 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 paragraph (e)(3) of this section.* *(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), unless superseded by a Federal Special Action.* ***(xiii) In Subdistrict5D you may take early- run salmon migrating up river before the first pulse of Chinook Salmon.***
OSM Conclusion	**Support**
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Oppose**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**
Seward Peninsula Subsistence Regional Advisory Council Recommendation	**Take No Action**
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Interagency Staff Committee Comments	**See page 105**

ADF&G Comments	**Oppose**
Written Public Comments	None

STAFF ANALYSIS
FP17-02

ISSUE

Proposal FP17-02 submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council (Council), requests Federally qualified subsistence users in Subdistrict 5D be allowed harvest of early arriving Chinook Salmon until subsistence fishing is closed to protect the first pulse of Chinook Salmon. This would allow Federally qualified subsistence users in portions of Subdistrict 5D access to a small number of Chinook Salmon while still protecting the main Chinook Salmon run.

DISCUSSION

Subsistence fishing on the Yukon River in Subdistrict 5D is open 7 days a week with no harvest limit for salmon, unless closed by the in-season managers for conservation purposes. On June 19, 2016, as the Chinook Salmon run began to build, the lower portion of Subdistrict 5D was restricted to fishing on the early segment of the run with 6-inch or smaller mesh size gillnets and fish wheels (ADF&G 2016a). On June 28, 2016, subsistence fishing was closed to subsistence salmon fishing with gillnets and fish wheels to protect Chinook Salmon in the lower portion of Subdistrict 5D and followed sequentially to the middle and upper portions as the migration progressed upstream.

Few summer Chum Salmon migrate as far upriver as District 5; therefore, any subsistence opportunity provided would likely target Chinook Salmon, the majority of which are of Canadian-origin. Because few alternative fish species are available for subsistence harvest during the summer season, District 5 often experiences the most restrictive management measures. In an effort to increase harvest opportunity for Federally qualified subsistence users in Subdistrict 5D, the Council proposed allowing harvest of the early arriving Chinook Salmon. Federally qualified subsistence users would be able to harvest the early arriving Chinook Salmon until the first pulse of Chinook Salmon arrived in Subdistrict 5D which is often protected by a fishing closure. Local knowledge defines a pulse of salmon as an aggregate of fish entering the river and traveling upstream together (Bue 2016, pers. comm.). These aggregates of fish usually begin their river migration as a result of changing environmental condition such as tide and wind near the mouth of the river. The aggregates usually represent a mix of fish that are bound for multiple streams, as they migrate upriver they cause an increase in the fish counts at the escapement projects. Closures to protect the first pulse of Chinook Salmon are not required for Subdistrict by regulation.

Existing Federal Regulation

Yukon-Northern Area – Salmon

§___.27 (i)(3) Subsistence taking of fish

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. 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 paragraph (e)(3) of this section.

(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), unless superseded by a Federal Special Action.

Proposed Federal Regulation

Yukon-Northern Area – Salmon

§___.27 (i)(3) Subsistence taking of fish

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. 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 paragraph (e)(3) of this section.

(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), unless superseded by a Federal Special Action.

(xiii) In Subdistrict5D you may take early- run salmon migrating up river before the first pulse of Chinook Salmon.

Existing State Regulation

5 AAC 01.210. Fishing Seasons and Periods – Yukon Area

(a) Unless restricted in this section, or in 5 AAC 01.220 – 5 ACC 01.249, salmon may be taken in the Yukon Area at any time.

(b) When there are no commercial salmon fishing periods, the subsistence fishery in the Yukon River drainage will be based on a schedule implemented chronologically, consistent with migratory timing as the

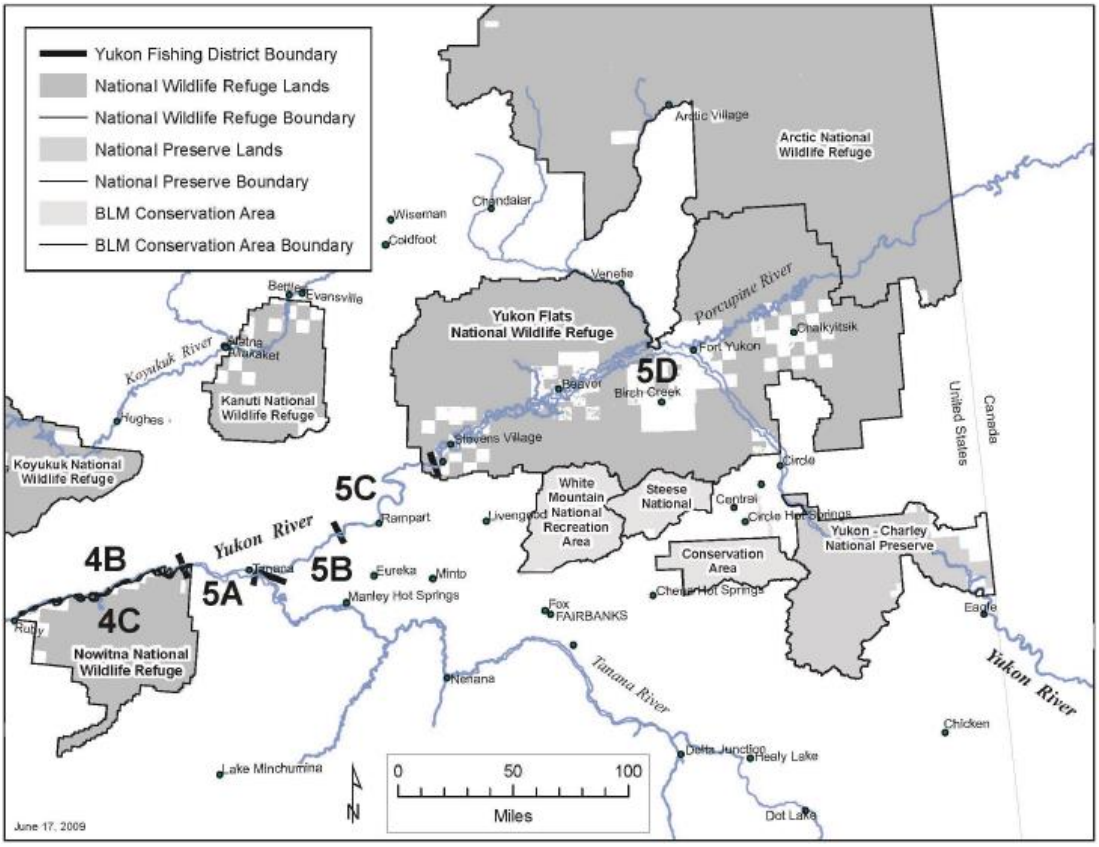
salmon run progresses upstream. The commissioner may alter fishing periods by emergency order, if the commissioner determines that preseason or in-season run indicators indicate it is necessary for conservation purposes. The fishing periods for subsistence salmon fishing in the Yukon River drainage will be established by emergency order as follow:

(1) Coastal District, Koyukuk River, Kantishna River, and Subdistrict 5D: seven days per week.

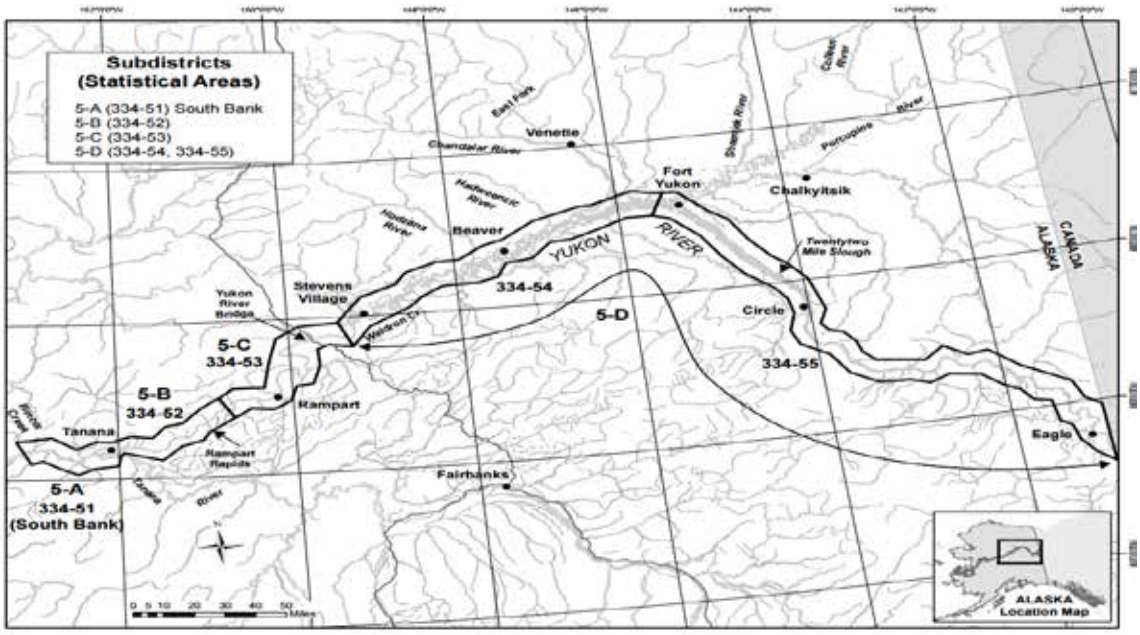
(c) *Notwithstanding the provisions of (A) and (B) of this paragraph, if the commissioner determines it is necessary to ensure that reasonable opportunity for subsistence uses is being provided, the commissioner may, by emergency order, open a subsistence fishing period that may occur during times that are before, during, and after a commercial salmon fishing period.*

Extent of Federal Public Waters

The area addressed by this proposal includes all Federal public waters of the Yukon River. Federal public waters of the Yukon River watershed include all navigable and non-navigable waters, located within and adjacent to the exterior boundaries of the Innoko, Kanuti, Koyukuk, Nowitna, Tetlin, Yukon Flats, Yukon Delta National Wildlife Refuges (NWR); the Arctic NWR; the Denali Preserve; the 1980 additions to the Denali Park; the gates of the Arctic National Park and Preserve; the Wrangell–St. Elias National Park and Preserve; Yukon-Charley Rivers National Preserve; the Steese National Conservation Area; the White Mountain National Recreation Area, and Preserve, and those segments of the Wild and Scenic River system, of the Yukon River drainage, located outside the boundaries of these Federal Conservation System Units (i.e., portions of Beaver and Birch Creeks and the Delta, and the Fortymile Rivers). The area addressed by this proposal includes all Federal public waters of the Yukon River drainage in Subdistrict 5D, approximately from the village of Stevens Village upstream to the Canadian border. 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 (**Map 1 and Map 2**).



Map 1. Area map of Subdistrict 5D and surrounding Federal lands (ADF&G 2016d).



Map 2. Area map of Subdistrict 5D with local communities (ADF&G 2016d).

Customary and Traditional Use Determinations

For salmon other than Fall Chum Salmon, residents of the Yukon River drainage, and the community of Stebbins have a customary and traditional use determination. For freshwater fish (other than salmon) residents of the Yukon Northern Area have a customary and tradition use determination within the Yukon River Drainage.

Regulatory History

Since 2001, the Yukon River Chinook Salmon stock has been categorized as a "stock of yield concern" by the Alaska Board of Fisheries in accordance with the *Policy for the management of sustainable salmon fisheries* (5 AAC 39.222). This designation identifies a chronic inability to maintain expected yields or harvestable surpluses above a stock's escapement needs despite restrictive management actions. Directed commercial fishing for Yukon River Chinook Salmon has been discontinued since 2007 and subsistence fishing opportunities have become increasingly more restrictive in an effort to conserve Chinook Salmon.

Management of the Yukon River salmon fishery is complex due to the (1) inability to determine stock-specific abundance and timing, (2) overlapping multi-species salmon runs, (3) efficiency of methods and means, (4) allocation issues, and (5) the immense size of the Yukon River drainage. The 2014 season was "the most conservatively managed Chinook Salmon season in recent history" (ADF&G 2014a). The management strategies implement in 2014 have continued to be in place through 2016 to conserve Chinook Salmon (ADF&G 2016). Once Chinook Salmon began travel through the fishing districts, closures were initiated. The closure would be implemented in fishing districts based on the migratory timing of the salmon. In 2016, the southern portion of the Coastal District was restricted to 6-inch mesh gillnets when Chinook entered the river. The northern portion of the Coastal District and Districts 1 through 4 and Subdistricts 5A, 5B and 5C were closed to gillnets as the first Chinook salmon migrated upriver. The Districts were reopened with dipnets, beach seines, and live-release fishwheels to ensure the live release of Chinook salmon. As Chinook Salmon entered Subdistrict 5D gillnets were restricted to 6-inch.Once Chinook Salmon began travel through the fishing districts, closures were initiated. The closure would be implemented in fishing districts based on the migratory timing of the salmon. During subsistence salmon fishing closures, non-salmon species were harvested by using 4-inch or smaller mesh size gillnets and targeting of Chinook Salmon was not allowed. Subsistence restrictions would be relaxed after the Chinook Salmon run has passed through each section of the river. Finally, sport fishing for Chinook Salmon was closed in the U.S. portion of the Yukon River drainage.

The Canadian Interim Management Escapement Goal of 42,500– 55,000 Chinook Salmon is based on the Eagle sonar program. In order to meet this goal, the passage at the Eagle sonar station must include a minimum of 42,500 fish for the Canadian escapement, plus provide for a subsistence harvest in upstream of the sonar (approximately 1,000–2,000 fish), and incorporate Canadian harvest sharing as dictated in the US/Canada Yukon River Treaty. Few summer Chum Salmon migrate as far upriver as Subdistrict 5 therefore, any subsistence opportunity provided would likely target Chinook Salmon, the majority of which are of Canadian-origin. Subsistence fishers have had very limited opportunities to harvest Chinook Salmon in the Yukon River drainage during years of low abundance.

While the 2016 Yukon River Chinook Salmon run is forecasted to be stronger than previous years, managers predicted a below average return (ADF&G 2016a). It was likely that conservation measures would be necessary to meet the IMEG of 42,000-55,000 Chinook Salmon. The 2016 drainage-wide Chinook Salmon forecast was for a run size of 130,000 to 175,000 fish. The upper end of this range was similar in size to the run observed in 2015 and would likely require subsistence harvest restrictions in order to assure escapement objectives are met. The first Chinook Salmon were caught in the Lower Yukon Test Fishery on May 17 and May 23 indicating that the 2016 Chinook Salmon run had begun entering the river (ADF&G 2016c). As Chinook Salmon move into District 5D, fishing remained open to allow harvest of the early Chinook Salmon tricklers (ADF&G 2016b). However, gillnet mesh size was restricted to no larger than 6-inches in an effort to conserve the larger bodied female component of the run. As the first pulse of Chinook Salmon move up the drainage, subsistence salmon fishing was closed under both State and Federal management actions to protect the migrating Chinook Salmon. The sport and commercial fisheries for Chinook Salmon were closed through the U.S. portion of the Yukon River drainage, excluding the Tanana River drainage. Restrictions for the Tanana Rivers drainage sport fishery were announced in early June.

Current Events Involving the Species

The 2013 Chinook Salmon run was one of the poorest runs on record. In response, fishery managers reduced subsistence fishing opportunity to limit harvests to approximately 25% of historical level. However, even with reduced subsistence harvests, the lower bound of the Canadian IMEG (42,500 – 55,000 fish) was not met and the estimated escapement past the Eagle sonar was 30,752 Chinook Salmon. In 2014 and 2015, the Chinook Salmon fishery was also managed conservatively. Chinook Salmon escapement into Canada exceeded the upper bound of the Canadian IMEG both years, at 63,462 and 84,015 fish, respectively. The 2016 drainage-wide Chinook Salmon outlook is for a run size of 130,000 to 175,000 fish past the Pilot Station sonar site (**Figure 1**; ADF&G 2016b). The preseason forecast for the Yukon River main stem Chinook Salmon return is predicted to be below-average and in this regard, a conservative management approach will likely be required in order to achieve the IMEG (JTC 2016).

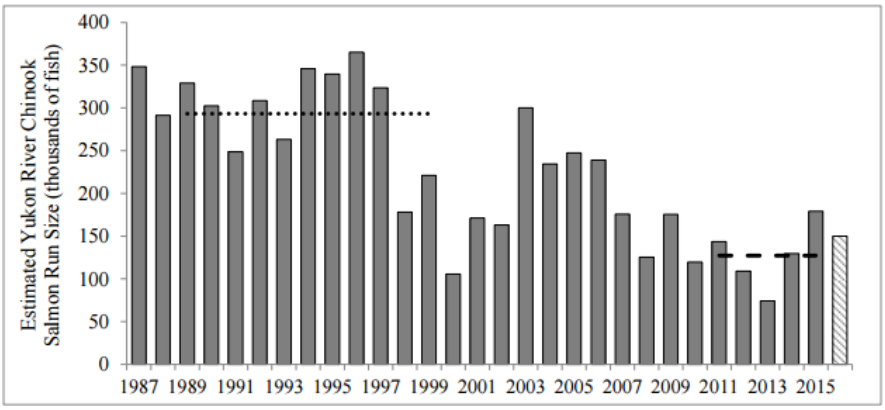


Figure 1. The 2016 dashed bar represents the approximate midpoint of the projected outlook range of 130,000 to 175,000 Chinook salmon at Pilot Station sonar. The dotted line represents the historical average run size and the dashed line is the recent 5 – year average run size (ADF&G 2016).

As the 2016 season started, in-season fisheries managers proceeded to manage the Chinook fishery with caution and acted in a conservative manner in which they described in their 2016 forecast management plan. As the season progressed and the sonar escapement at Eagle was predicted to be met, in-season fisheries managers began to liberalize the fisheries to increase opportunities for subsistence purposes.

During the early 2016 season, ADF&G and the U.S. Fish and Wildlife Service (USFWS) presented a news release with specific management actions for Subdistrict 5D to restrict gear size of gillnets during specific times. ADF&G management actions for Subdistrict 5D were as follows (**Table 1**):

Table 1. News releases of the in-season management actions for the 2016 season.

Area of 5D	Date	Action	Season	Methods	New Release
LOWER	31-May	Open 24 hrs a day	Seven days / week	Fish wheels or gill-nets with mesh 7.5 inches or smaller	(NR #7)
MIDDLE					
UPPER					
LOWER	19-Jun	Open 24 hrs a day	Seven days / week	Fish wheels or gill-nets with mesh 6 inches or smaller	(NR #17)
MIDDLE	22-Jun	Open 24 hrs a day			(NR # 27)
UPPER	24-Jun	Open 24 hrs a day			(NR # 27)
LOWER	28-Jun	CLOSE			(NR #29)
MIDDLE	1-Jul	CLOSE			(NR #29)
UPPER	3-Jul	CLOSE			(NR #55)
LOWER	11-Jul		One 12-hour period	Fish wheels or gill-nets mesh size 6 inches or smaller	(NR #55)
MIDDLE	13-Jul				(NR #55)
UPPER	15-Jul				(NR #55)
LOWER	17-Jul		One 24-hour period	Fish wheels or gill-nets mesh size 6 inches or smaller	(NR #60)
MIDDLE	17-Jul				(NR #60)
UPPER	15-Jul		One 36-hour period		(NR #60)
LOWER	20-Jul		3.5 day period	Fish wheels or gill-nets mesh size 6 inches or smaller	(NR #61)
MIDDLE	20-Jul				(NR #61)
UPPER	20-Jul				(NR #61)
5D	19-Jul		4.5 day	Fish wheels or gill-nets mesh size 6 inches or smaller	(NR # 64)
5D	24-Jul	Open 24 hrs a day	One 24-hour period	Fish wheels or gill-nets mesh size 7.5-inch or smaller	(NR # 65)

5D	25-Jul	Open 24 hrs a day	Seven days / week	Fish wheels or gill-nets mesh size 6 inches or smaller	(NR # 65)
5D	26-Jul	Open 24 hrs a day	Seven days / week	Fish wheels or gill-nets mesh size 7.5-inch or smaller	(NR #67)

Biological Background

Recent analyses indicate that Yukon River Chinook Salmon stocks appear to be in the 8th year of a multi-year period of low productivity. Historically, the Yukon River Chinook Salmon stocks show periods of above-average abundance (1982-1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013). Conservation efforts have been on going to help protect the fishery from further declines.

The 2016 drainage-wide Chinook Salmon outlook is for a run size of 130,000 to 175,000 fish. The upper ends of this range is similar in size to the run observed in 2015 and will require subsistence harvest restrictions in order to assure minimum escapement objectives are met. As in recent years, initial management will be based on the expectation that the 2016 Chinook Salmon run size will likely be near the lower end of this range. Although an optimistic projection, historically the estimated projection is still considered below average (JTC 2016).

Harvest History

Chinook Salmon subsistence harvests have been approximately 50,000 fish annually in the Alaskan portion of the Yukon River over the past 20 years. However, subsistence harvest levels of Chinook Salmon have declined since 1997 due to declining run abundance and resultant harvest restrictions. In recent years, subsistence fishing has increasingly targeted salmon other than Chinook Salmon and other species such as whitefish. In order to allow continued subsistence opportunity throughout the season, subsistence fishing activity has been managed to avoid Chinook Salmon and allow the harvest of other fish species. Yukon River drainage District 5 includes the communities of Tanana, Rampart, Steven Village, Birch Creek, Beaver, Fort Yukon, Circle, Central, Eagle, Venetie and Chalkyitsik. District 5 harvested an estimated 5-year average (2001–2005) of 13,969 Chinook Salmon annually and 2006 – 2010 averaged 11,252 (Jallen et al. 2012). A decrease occurred in all 6 management districts. Household harvest surveys are not done with residents of Rampart, Circle, Central, Eagle, Manley, Minto, Nenana, and Healy. Instead, all Alaska residents fishing in these areas must obtain a State subsistence or personal use permit.

Cultural Knowledge and Traditional Practices

People who are members of Yup'ik Eskimo and *Deg Hit'an, Doy Hit'an*, Holikachuk, *Denaakk'e* (Koyukon), *Gwich'in*, *Han*, Tanana, Tanacross, or Upper Tanana Athabaskan cultural groups live in the 61 rural communities and have a customary and traditional use determination for Chinook Salmon in the District 5D of the Yukon River drainage in Alaska (**Table 2**). Settlement patterns since 1900 have been characterized by

movement from nomadism to permanent settlements at important harvesting sites, around trading posts, and to send children to school. Others have moved to the area to work in education, government, mining, trade, and other industries (Clark 1981; Fienup-Riordan 1984, 1986; Haynes and Simeone 2007; Hosley 1981; Mishler and Simeone 2004; Nelson 1983; Slobodin 1981; Wolfe and Scott 2010; VanStone 1984; VanStone and Goddard 1981).

A major force of change affecting salmon harvest levels in the upper Yukon River drainage was the use of salmon to feed sled dogs described below.

> *The period from 1900 to 1940 encompasses the peak sled dog era in the Yukon River drainage . . . virtually every family maintained a small number of sled dogs . . . . In the*
>
> *1930s airplanes began to replace commercial dog teams for the movement of freight and mail but sled dogs continued to provide the bulk of winter transportation for individuals and families throughout the Yukon River drainage* (Andersen and Scott 2010:2–5).

By the 1970s snowmobiles had largely replaced the family dog team. Some people continue to keep dogs. In the upper Yukon River drainage no one reported harvesting Chinook Salmon for dog food in 2009, 2010, or 2011, nor during a survey conducted in 2008 that included the communities of Tanana and Fort Yukon (Andersen and Scott 2010; Jallen, Decker, and Hamazaki 2012; Jallen, Ayers, and Hamazaki 2012; Jallen and Hamazaki 2011). In 2011, an estimated 40,178 salmon were harvested for dog food in the upper Yukon River drainage (from Tanana, in District 5A, to the Canada Border, in District 5D). The majority was fall Chum Salmon. Smaller amounts of summer Chum Salmon and Coho Salmon were also harvested to feed dogs.

In contrast to the lower and middle, the population in only the upper Yukon River (from Tanana, in District 5A, to the Canada border, in District 5D) drainage peaked between 1970 and 2000 and has since declined; the population increased by only 1.5% in the 50 years between 1960 and 2010 (**Table 2**, ADCCED 2014). Villages are generally described as culturally affiliated with Koyukon, Gwich'in, and Han Athabascans (Clark 1981, Hosley 1981, Mishler and Simeone 2004, Nelson 1983, Slobodin 1981, Wolfe and Scott 2010, VanStone and Goddard 1981). Eagle City, Chicken, and Central were established as gold mining supply sites; however, most miners had left the area by 1910. Native and non-Natives worked on steamboats, in mines, and in wood chopping camps, as well as on traplines. In the 1970s land auctions attracted new residents to Eagle City. Gold miners continue to return to the area seasonally. Roads have linked Eagle with the Alaska Highway since the 1950s, the Steese Highway connected Central with Fairbanks in 1927, and the Dalton Highway (Haul Road) from Fairbanks crosses the Yukon River between the communities of Rampart and Stevens Village (Crow and Obley 1981, Hosley 1981).

A significant factor affecting the management of salmon fisheries in the upper Yukon River drainage is the three highway access points, described above. Federal regulations do not affect the State fisheries at the three highway access points because none are located on Federal public lands. The following is a description of salmon fishing patterns of communities that harvest salmon in District 5D.

Residents of Eagle and Eagle Village

People rely on large quantities of salmon, including Chinook Salmon, that they harvest from the upper Yukon River drainage in District 5D (Jallen, Decker, and Hamazaki 2012). More fall Chum Salmon are harvested than other salmon species. Historically fish, especially salmon, were a vital resource for Han people living in the Upper Yukon area encompassing District 5D (Mishler and Simeone 2004). Chinook Salmon pass Eagle Village around July 1 and continue for about a month. After a short break, the fall Chum Salmon run begins in mid-August and continues to late September. There are fishwheels harvesting salmon from Eagle Village to the Canadian border. "Up until the 1970s, Han families usually moved to their fish camps while the salmon were running" (Mishler and Simeone 2004:60). They processed Chinook Salmon for human consumption and Chum Salmon for dog food. They cut salmon fillets into long strips and smoked salmon, kippered and froze salmon, and smoked salmon fish eggs.

Residents of Chicken

The community of Chicken is situated on the Taylor Highway on a tributary of the Fortymile River and about 95 highway miles from Yukon River at the community of Circle. Salmon are not observed in the Fortymile River drainage in Alaska except a few Chum Salmon below the Taylor Highway bridge that crosses the Fortymile River about 46 miles from Chicken. No subsistence harvests of salmon have been reported by Chicken residents (Jallen, Decker, and Hamazaki 2012).

Residents of Beaver, Birch Creek, Circle, Fort Yukon, Venetie, Chalkyitsik, and Arctic Village

Most residents harvest more fall Chum Salmon than other salmon species from the upper Yukon River drainage (Jallen, Decker, and Hamazaki 2012). Five groups, or bands, of Gwich'in were centered historically in the Upper Yukon-Porcupine region of Alaska (Slobodin 1981). In 1983, Caulfield described the harvest of fish. "Traditionally fish were one of the most reliable and abundant food resources in the Upper Yukon-Porcupine region, and this fact remains true today . . . . Harvest of fish was a major component of the annual cycle for bands" (Caulfield 1983:36).

> *Salmon are harvested primarily along the Yukon River . . . . King salmon arrive at Fort Yukon during the end of June and are generally caught . . . during the early part of July. Chum Salmon arrive in August . . . . The most intensive fishing activity for Chums takes place in late August and early September . . . . King salmon are extremely oily and are usually cut into strips and hung to dry in smokehouses. King salmon heads are often split, dried, and used in soups . . . . Several thousand Chums may be split and dried on racks in the fall for dog food* (Caulfield 1983:74).

Additionally, "Chalkyitsik has traditionally been an important fishing site" located on the Salmon Fork of the Black River (Caulfield 1983:127). "The main reason for the . . . settlement was the presence of abundant source of whitefish which run down the nearby creek during the fall" (Nelson 1973:18). Traditional territory included the Porcupine and Black rivers. Some Chum Salmon were gaffed in the fall at spawning areas.

Residents of Arctic Village generally harvest salmon from the Chandalar River drainage above Venetie (ADF&G 1986; Caulfield 1983; Jallen, Decker, and Hamazaki 2012). Fall Chum Salmon account for the majority of salmon returning to the Chandalar River and begin to arrive in late July or early August. "Summer Chum Salmon, while not as abundant, have been intermittently observed in the Chandalar River. . . . While Chinook Salmon are known to spawn in the Chandalar River, their actual abundance is unknown" (Melegari and Osborne 2008:1).

Residents of Central

Central residents harvest some salmon, primarily Chinook Salmon (Jallen, Decker, and Hamazaki 2012). Central is located on the upper reaches of Birch Creek and along the Steese Highway that connects Fairbanks to the community of Circle on the Yukon River, 33 highway miles away. They harvest salmon from the mainstem of the Yukon River, probably at Circle. Central was a mining supply site and telegraph maintenance station in the 1890s and early 1900s. Mining activity in the area continues today. Central also provides services to area residents (Hosely 1981; Jallen, Decker, and Hamazaki 2012).

Residents of Stevens Village

People harvest more Chinook or fall Chum Salmon than summer Chum or Coho Salmon (Jallen, Decker, and Hamazaki 2012). Chinook Salmon are generally available in the area from late June or early July through July and in some years into August. Late run Chinook Salmon are mixed with summer Chum Salmon. Coho Salmon arrive by September. In 1984 Sumida (1986) wrote that all Chinook Salmon were prepared for human consumption, and only some entrails, backbones, and other discarded parts were fed to dogs. Summer Chum Salmon were used primarily for dog food, some fall Chum Salmon were prepared for human consumption and some were fed to dogs, and most Coho Salmon were used for dog food and some were prepared for human consumption. Most fish camps were located along the Yukon River mainstem from just below the Dalton Highway bridge (about 27 river miles downriver) to several miles above Stevens Village. Chinook Salmon were desired by all households in the community. They were cut, smoked, and dried in strips, frozen, salted, and/or canned. Fish heads and roe were sometimes processed for later use. Summer Chum and Coho Salmon were selectively cut for human consumption or dog food based in part on the quality of the fish, number of dogs, and the number of Chinook Salmon already harvested. Salmon for dog food were handled with less care (Sumida 1986). In 2007, about 40% of Stevens Village households had fish camps where they processed and smoked salmon. Most fishing sites were located downriver from the community about halfway to the Dalton Highway bridge where a few fish camps had seasonal occupants from outside the area. The average use of a particular fish camp by a family was 51 years. Sled dogs were common in Stevens Village (Wolfe and Scott 2010). Wolfe and Scott (2010) quoted from a Stevens Village resident describing the traditional use area and the impact of the Dalton Highway bridge.

> *You know all these villages of the Interior originally were separate bands . . . . Every band or village had its traditional hunting and fishing ground that the other bands recognized. Traditionally, the Stevens Village people's traditional use area was forty miles upriver [from the Yukon bridge] halfway to Beaver Village, around Marten Island, then north back*

> *to the foothills, south to Hess Creek. On the western edge, the traditional boundary was at the Ray River area, which is now where the Dalton Highway crosses the Yukon. Traditionally, at that Ray River area for a few miles on either side was like an overlap of Rampart people and Stevens Village people.*
>
> *Now and more contemporary times, with the advent of state fishing regulations and with this road, that traditional type area is not recognized anymore [by outsiders]. You have nonlocal Natives will come in and set up camp right off the road, like you saw last night. In more traditional times, they would ask permission from the tribe of whose area they were in. That's kind of still a little bit in practice, but not so much, because nowadays people travel, and even Native peoples kind of abide by the state and federal hunting and fishing boundaries and permitting system rather than the traditional form of governance over traditional tribal fishing and hunting boundaries* (Wolfe and Scott 2010:28–29).

Residents of Rampart

Rampart is located in District 5C downriver from District 5D. People harvest more Chinook and fall Chum Salmon than summer Chum or Coho Salmon (Jallen, Decker, and Hamazaki 2012). People have fish camps up to the Dalton Highway bridge (in District 5D). A stretch of river below the bridge is used by residents of Stevens Village and Rampart. Wolfe and Scott (2010) reported that in 2007 five fish camp families in the area below the bridge were dual residents of Rampart and Fairbanks and four fish camps were occupied by people without connections to the villages.

Table 1. The number of people in the customary and traditional use determination for Chinook Salmon in District 5D of the upper Yukon River drainage, by community and Fishery Management District, 1960-2010.

U.S. CENSUS POPULATION							
Community	**1960**	**1970**	**1980**	**1990**	**2000**	**2010**	**2010 number of households**
Stebbins city	158	231	331	400	547	556	134
Outside drainage subtotal	**158**	**231**	**331**	**400**	**547**	**556**	**134**
Alakanuk city	278	265	522	544	652	677	160
Nunam Iqua city	125	125	103	109	164	187	43
Emmonak city	358	439	567	642	767	762	185
Kotlik city	57	228	293	461	591	577	128
District 1 subtotal	**818**	**1,057**	**1,485**	**1,756**	**2,174**	**2,203**	**516**
Mountain Village city	300	419	583	674	755	813	184
Pitkas Point CDP	28	70	88	135	125	109	31
Saint Marys city	260	384	382	441	500	507	151
Pilot Station city	219	290	325	463	550	568	121
Marshall city	166	175	262	273	349	414	100
District 2 subtotal	**973**	**1,338**	**1,640**	**1,986**	**2,279**	**2,411**	**587**
Russian Mission city	102	146	169	246	296	312	73
Holy Cross city	256	199	241	277	227	178	64
Shageluk city	155	167	131	139	129	83	36
District 3 subtotal	**513**	**512**	**541**	**662**	**652**	**573**	**173**
Anvik city	120	83	114	82	104	85	33
Grayling city	0	139	209	208	194	194	55
Kaltag city	165	206	247	240	230	190	70
Nulato CDP	183	308	350	359	336	264	92
Koyukuk city	128	124	98	126	101	96	42
Huslia city	168	159	188	207	293	275	91
Hughes city	69	85	73	54	78	77	31
Allakaket city	115	174	163	170	97	105	44
Alatna CDP				31	35	37	12
Bettles city	77	57	49	36	43	12	9
Evansville CDP	77	57	45	33	28	15	12
Wiseman CDP	0	0	8	33	21	14	5
Coldfoot CDP					13	10	6
Galena city	261	302	765	833	675	470	190
Ruby city	179	145	197	170	188	166	62
District 4 subtotal	**1,542**	**1,839**	**2,506**	**2,582**	**2,436**	**2,010**	**754**
Tanana city	349	120	388	345	308	246	100
Rampart CDP	49	36	50	68	45	24	10
Stevens Village CDP	102	74	96	102	87	78	26
Beaver CDP	101	101	66	103	84	84	36
Fort Yukon city	701	448	619	580	595	583	246
Chalkyitsik CDP	57	130	100	90	83	69	24

Continued on next page

Table 1. *Continued from previous page*

U.S. CENSUS POPULATION							
Community	**1960**	**1970**	**1980**	**1990**	**2000**	**2010**	**2010 number of households**
Arctic Village CDP	110	85	111	96	152	152	65
Venetie CDP	107	112	132	182	202	166	61
Birch Creek CDP	32	45	32	42	28	33	17
Circle CDP	41	54	81	73	100	104	40
Chicken CDP	0	0	0	0	17	7	5
Central CDP	28	26	36	52	134	96	53
Eagle Village CDP	0	0	54	35	68	67	31
Eagle city	92	36	110	168	129	86	41
District 5 subtotal	**1,769**	**1,267**	**1,875**	**1,936**	**2,032**	**1,795**	**755**
Livengood CDP					29	13	7
Manley CDP	72	34	61	96	72	89	41
Minto CDP	161	168	153	218	258	210	65
Whitestone CDP						97	22
Nenana city	286	362	470	393	402	378	171
Four Mile Road CDP					38	49	14
Healy CDP	67	79	334	487	1,000	1,021	434
McKinley Park CDP	0	0	60	171	142	185	109
Anderson city	341	362	517	628	367	246	90
Ferry CDP				56	29	33	17
Lake MinChumina CDP	0	0	22	32	32	13	6
Cantwell CDP	85	62	89	147	222	219	104
Delta Junction city	0	703	945	652	840	958	377
Fort Greely CDP	0	1,820	1,635	1,299	461	539	236
Deltana CDP					1,570	2,251	784
Healy Lake CDP	0	0	33	47	37	13	7
Big Delta CDP	0	0	285	400	749	591	206
Dry Creek CDP	0	0	0	106	128	94	29
Dot Lake CDP	56	42	67	70	19	13	7
Dot Lake Village CDP					38	62	19
Tanacross CDP	102	84	117	106	140	136	53
Tetlin CDP	122	114	107	87	117	127	43
Tok CDP	129	214	589	935	1,393	1,258	532
Northway CDP	196	40	73	123	95	71	27
Northway Jct. CDP	0	0	0	88	72	54	20
Northway Village CDP						98	
Alcan border CDP	0	0	0	27	21	33	16
Nabesna CDP						5	3
District 6 subtotal	**1,617**	**4,084**	**5,557**	**6,168**	**8,271**	**8,856**	**3,439**
TOTAL	**7,390**	**10,328**	**13,935**	**15,490**	**18,391**	**18,404**	**6,358**

CDP=Census Designated Place. Black cell=information is not available. Source: ADCCED 2014.

Effects of the Proposal

If FP17-02 were adopted, it would give Federally qualified subsistence users in Subdistrict 5D the ability to harvest early arriving Chinook Salmon, migrating through portions Subdistrict 5D, without action from the Federal in-season manager, provided a surplus is available for harvest. In times of low Chinook Salmon abundance, when conservation actions are required, the inseason manager may still impose a subsistence fishing schedule and/or gear restrictions through Federal Special Actions. Since 2014, Federally qualified subsistence users have been allowed to harvest the earliest returning Chinook Salmon with gear restrictions. Once the first pulse of Chinook Salmon arrived in the subdistrict, the in-season manager issued a closure to protect the salmon pulse. If this proposal were adopted, the Federally qualified subsistence users in Subdistrict 5D would have that same opportunity as they have had in recent years without a Federal Special Action.

OSM CONCLUSION

Support FP17-02

Justification

Adoption of this proposal would result in continued opportunity for Federally qualified subsistence users in portions of Subdistrict 5D adjacent to Federal Management Units to harvest the earliest returning Yukon River Chinook Salmon. Since 2014, Federally qualified subsistence users were allowed to harvest Chinook Salmon until the inseason manager closed the district to protect the first pulse of Chinook Salmon. Adoption of this proposal would provide a preference to Federally qualified subsistence users to continue harvesting the earliest Chinook Salmon arriving in Subdistrict 5D without a Federal Special Action when the remaining waters not adjacent to Federal Management Units are closed.

LITERATURE CITED

ADCCED (Alaska Department of Commerce, Community, and Economic Development). 2014. Community database online. http://commerce.alaska.gov/cra/DCRAExternal/community, accessed September 8, 2014. Div. of Community and Regional Affairs, Juneau, AK.

ADF&G. 2014a. 2014 preliminary Yukon River summer season summary. News Release issued October 8, 2014. Div. of Commercial Fisheries. Anchorage.

ADF&G. 2014b. Alaska Sport Fishing Survey. http://www.adfg.alaska.gov/sf/sportfishingsurvey/index.cfm?ADFG=region.home, accessed November 2014. Anchorage.

ADF&G. 2016a. 2016 Yukon River Salmon Fisheries Outlook. News Release issued May 6, 2016. Division of Commercial Fisheries. Anchorage.

ADF&G. 2016b. 2016 Yukon River Salmon Fishery News Release #3, News Release issued May 20, 2016. Division of Commercial Fisheries. Anchorage.

ADF&G. 2016c. 2016 Yukon River Salmon Fishery News Release #7, News Release issued May 31, 2016. Division of Commercial Fisheries. Anchorage.

ADF&G. 2016d. Yukon River Commercial Area Maps.

http://www.adfg.alaska.gov/static/fishing/PDFs/commercial/yukon/yukon_district5.pdf, accessed June 2016. Anchorage.

ADF&G (Alaska Department of Fish and Game). 1986. Subsistence use of fish, wildlife, and plants. Alaska Habitat Management Guide, Reference Maps, Volume V: Western and Interior Regions. Div. of Habitat, Juneau, AK.

Andersen, D.B., and C.L. Scott. 2010. An update on the use of subsistence-caught fish to feed sled dogs in the Yukon River drainage, Alaska. Final Report 08-250. U.S. Fish and Wildlife Service, Office of Subsistence Management, Fisheries Resource Monitoring Program.

Bue, F. 2016. Fishery Biologist. Personal communication: phone. USFWS. Fairbanks, AK.

Caulfield, R.A. 1983. Subsistence land use in upper Yukon Porcupine communities, Alaska. ADF&G, Div. of Subsistence Tech. Paper No. 16. Juneau, AK. http://www.adfg.alaska.gov/techpap/tp016.pdf

Clark, A.M. 1981. Koyukon. Pages 582–601 in J. Helm, editor. Handbook of North American Indians, Vol. 6, Subarctic. Smithsonian Institution, Washington, D.C.

Crow, J.R., and P.R. Obley 1981. Han. Pages 506–513 in J. Helm, editor. Handbook of North American Indians, Vol. 6, Subarctic. Smithsonian Institution, Washington, D.C.

Fienup-Riordan, A. 1984. Regional groups on the Yukon-Kuskokwim Delta. Pages 63–93 in Etudes Inuit Studies, Vol. 8.

Fienup-Riordan, A. 1986. When our bad season comes: a cultural account of subsistence harvesting and harvest disruption on the Yukon delta. Aurora. Alaska Anthropological Association Monograph Series No. 1. Anchorage

Holly, Carrol., Estensen, Jeff., 2016. 2016 Yukon River Salmon Fisheries Outlook. ADF&G. Anchorage, AK 2 pp

Hosley, E.H. 1981. Intercultural relations and cultural change in the Alaska Plateau. Pages 546–555 in J. Helm, editor. Handbook of North American Indians, Vol. 6, Subarctic. Smithsonian Institution, Washington, D.C.

Jallen, D. M., S. K. S. Decker, and T. Hamazaki. 2012. Subsistence and personal use salmon harvests in the Alaska portion of the Yukon River drainage, 2011. ADF&G Fishery Data Series No. 12-72, Anchorage.

Jallen, D. M., S. D. Ayers, and T. Hamazaki. 2012. Subsistence and personal use salmon harvests in the Alaska portion of the Yukon River drainage, 2010. Alaska Department of Fish and Game, Fishery Data Series No. 12- 18, Anchorage.

JTC (Joint Technical Committee of the Yukon River US/Canada Panel). 2016. Yukon River salmon 2015 season summary and 2016 season outlook. ADF&G, Division of Commercial Fisheries, Regional Information Report 3A13-02, Anchorage.

Melegari, J.L., and B.M. Osborne. 2008. Evaluation of sonar for enumeration of Chinook salmon in the in the Chandalar River, Yukon Flats National Wildlife Refuge, Alaska. U.S. FWS, Fairbanks, AK.

Mishler, C., and W.E. Simeone. 2004. Han: Hän Hwëch'in, people of the river. University of Alaska Press, Fairbanks, AK.

Munro, A. R., and C. Tide, editors. 2014. Run forecasts and harvest projections for 2014 Alaska salmon fisheries and review of the 2013 season. ADF&G Special Publication No. 14-10, Anchorage.

Schindler, D., C. Krueger, P. Bisson, M. Bradford, B. Clark, J. Conitz, K. Howard, M. Jones, J. Murphy, K. Myers, M. Scheuerell, E. Volk, and J. Winton. Arctic-Yukon-Kuskokwim Chinook Salmon Research Action Plan: Evidence of Decline of Chinook Salmon Populations and Recommendations for Future Research. Prepared for the AYK Sustainable Salmon Initiative (Anchorage, AK). v + 70 pp

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Oppose FP17-02. The Council expressed concern for the protection of the first pulse of Chinook and that harvest of the "tricklers" ahead of the first pulse may jeopardize meeting escapement goals. The Council noted that communities all along the river have made an effort to restrict Chinook salmon harvest and protection of the first pulse of Chinook salmon including the early "tricklers" should be closed uniformly along the entire length of the Yukon River in order to ensure escapement goals are met.

Western Interior Alaska Subsistence Regional Advisory Council

Oppose FP17-02. The Council noted the proposal addresses a clear conservation concern. Council members noted that if there is a marginal return, the state could preclude this resource (i.e. prompting an "Alaska National Interest Lands Conservation Act" Title VIII – Subsistence Management and Use, §804 – Preference for subsistence use scenario). A question was raised as to whether an §804 scenario would allow only federally qualified users to harvest on federal waters. The Council deliberated the proposal extensively. The division of opinion voiced during the deliberation reflected those who felt the proposal was unnecessary versus those who felt the proposal was important to support the interests of fellow Regional Advisory Councils.

Seward Peninsula Subsistence Regional Advisory Council

Take No Action FP17-02. The Council supports additional subsistence opportunities that would be permitted under this Proposal. However, after hearing comments from the Alaska Department of Fish and Game regarding conservation concerns by placing this in regulation, the Council decided to Take No Action.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support FP17-02. Adoption of this proposal would allow Subdistrict 5D fishers to get some early fish and still protect the first pulse. The in-season managers would have enough time to close the fishery if necessary. In the past the beginning of the season was closed much sooner than necessary so opening and closing is seemingly at management discretion rather than actual run timing causing people to have less fishing time.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Interagency Staff Committee found the staff analysis to be an 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.

The Subsistence Regional Advisory Councils (Councils) were mixed in the recommendations on FP17-02. The Eastern Interior Council supported the proposal because it would allow some early-season harvest, while still protecting the first pulse of Chinook Salmon. The Western Interior Council was opposed because of potential conservation concerns with those same early running fish, and the Yukon-Kuskokwim Delta Council expressed concern that one district could be allowed to harvest fish while other districts would not be allowed; both councils noted the potential impacts to meeting escapement goals, and the regulation being unnecessary. The Seward Peninsula Council took no action.

Proposal FP17-02 is seeking to allow the harvest of early timed Chinook Salmon that enter sub-district 5D prior to the main pulse of Canadian bound Chinook Salmon arriving. The intent of the proposal is to provide for additional harvest opportunity in sub-district 5D under an 'open until closed' regulatory scenario. The Board may want to consider whether this regulation is necessary to meet the intent of the proponent. Currently in regulation, the season begins open to fishing, unless in-season managers impose restrictions for conservation reasons. Since 2014, Federally qualified subsistence users have been allowed to harvest these earliest running Chinook Salmon, albeit with gear restrictions. Adoption of the proposal would likely provide similar harvest opportunity compared to recent years; however, the more rigid regulation would reduce manager flexibility and discretion regarding these early running fish.

While these early running fish provide some important, limited harvest opportunities in the drainage, the Interagency Staff Committee also recognizes that a pulse protection strategy on the Yukon has the best chance of protecting the greatest number of Chinook Salmon from harvest. Thus, the Board should carefully consider the importance these earliest timed Chinook Salmon may have to the overall health and resiliency of Yukon River Chinook Salmon stocks. Conservation biology would dictate that these few early timed fish may be deserving of more protection from harvest rather than less, as their unique timing may provide a buffer to future environmental changes and challenges. Management strategies that preserve natural genetic variation are necessary for long-term sustainable populations. This tenet is especially important when considering the ability and perhaps the necessity of salmon stocks having to respond and adapt to climate change in the future. Variations in run timings are one of the genetic adaptations salmon have developed to assure their sustainability. Liberalizing harvest on primarily the earliest timed fish would serve to reduce this important component of Yukon River Chinook Salmon stocks. The Board could oppose this proposal based on inconsistency with recognized principles of sound fisheries management and conservation.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-02: This proposal was submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council and requests to allow harvest of early arriving Yukon River Chinook salmon in Subdistrict 5D until subsistence fishing is closed to protect the first pulse of Chinook salmon.

Background: Current Federal subsistence regulation specifies that in 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), unless superseded by a Federal Special Action.

In practice the fishery has been managed to allow an opportunity to harvest early arriving Chinook salmon in Subdistrict 5D since 2015. In 2016, the following subsistence salmon openings in Subdistrict 5D allowed harvest of early arriving Chinook salmon before subsistence fishing was closed to protect the first pulse of Chinook salmon:

- From May 31 through 6:00 p.m. June 19, subsistence fishing was open 24 hours a day, seven days a week, with fish wheels or gillnets with mesh 7.5 inches or smaller throughout Subdistrict 5D.
- In lower Subdistrict 5D, gillnet size was restricted to a mesh size of 6 inches or smaller from 6:00 p.m. June 19 until subsistence salmon fishing was closed on June 28.
- In middle Subdistrict 5D, gillnet size was restricted to a mesh size of 6 inches or smaller from 6:00 p.m. June 22 until subsistence salmon fishing was closed on July 1.
- In upper Subdistrict 5D, gillnet size was restricted to a mesh size of 6 inches or smaller from 6:00 p.m. June 24 until subsistence salmon fishing was closed on July 3.

The early opportunity is provided to offset the lack of opportunity for Chinook salmon later in the season, when management takes conservative measures in this district because there are few summer chum salmon and the majority of Chinook salmon caught in Subdistrict 5D are Canadian-origin.

Impact on Subsistence Users: This may require the Federal in-season manager to request a special action as this decision may be allocative in nature.

Impact on Other Users: None.

Opportunities Provided by the State: State regulations (5 AAC 01.210) direct that the subsistence fishery in the Yukon River drainage be based on a schedule implemented chronologically, consistent with migratory timing as the salmon run progresses upstream. Additionally, the *Yukon River King Salmon Management Plan* (5 AAC 05.360(j)(2)) specifies the following two options regarding the first pulse of king (Chinook) salmon in District 5:

(A) if inseason run assessment information indicates insufficient abundance of king salmon to meet escapement objectives on specific components of the run and subsistence harvest needs, the department will not open any subsistence fishing periods during the first pulse the first pulse of king salmon.
(B) if inseason run assessment information indicates sufficient abundance of king salmon to meet escapement objectives on specific components of the run and subsistence harvests needs, subsistence fishing will revert to the fishing periods as specified in (d) of this section.

The Board of Fisheries has found that 45,500–66,704 Chinook salmon are reasonably necessary for subsistence in the Yukon Area.

Recommendation: The State is OPPOSED to this proposal. This reduces management flexibility and adds a layer of complexity to an already complex management regime without providing additional opportunity for subsistence users. The State and Federal managers work closely together and when possible this area is opened to fish on the early fish to enable fishermen to have a limited subsistence harvest.

FP17-04 Executive Summary	
General Description	Proposal FP17-04 requests increased gillnet obstruction of Racetrack Slough of the Koyukuk River and sloughs of the Huslia River drainage between ice out and June 15. *Submitted by: Western Interior Alaska Subsistence Regional Advisory Council.*
Proposed Regulation	*§___.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), unless superseded by a Federal Special Action.* *(e)(3)(xvi) 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:* ***(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank, unless closed by Federal special action.***
OSM Preliminary Conclusion	**Support** (see page **116)**
OSM Conclusion	**Support with modification** to allow for ¾ width coverage by net of sloughs that are 40 feet or less in width (see page **117).** The modified regulation should read: *§___.27(e)(3)(xvi)**(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank except that sloughs 40 feet or less in width may have ¾ width coverage with set gillnet, unless closed by Federal special action.***
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Support as modified by the Western Interior Alaska Subsistence Regional Advisory Council**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support with modification** to allow for ¾ width coverage by net for sloughs that are 40 feet or less in width. The modified regulation should read: *§___.27(e)(3)(xvi)**(F) In Racetrack Slough on the Koyukuk***

	River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank except that sloughs 40 feet or less in width may have ¾ width coverage with set gillnet, unless closed by Federal special action.
Seward Peninsula Subsistence Regional Advisory Council Recommendation	**Take No Action**
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	**Take No Action**
North Slope Subsistence Regional Advisory Council Recommendation	**Support as modified by the 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	**Support**
Written Public Comments	**None**

STAFF ANALYSIS
FP17-04

ISSUES

Proposal FP17-04, submitted by the Western Interior Alaska Subsistence Regional Advisory Council (Council), requests that the Federal Subsistence Board allow an increase in the portion of Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage that may be covered with a gillnet to provide more subsistence harvest opportunity for Northern Pike between ice out and June 15.

DISCUSSION

The Council submitted this proposal to be more consistent with State regulations approved by the Alaska Board of Fisheries in January 2016 (State Proposal 144 with modified language adopted from RC 57). The proposed regulatory changes would provide more subsistence harvest opportunity for Northern Pike in Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage (**Map 1**), primarily residents of Huslia. Federal subsistence regulations currently allow for a fishery at this time; however, gillnets may not obstruct more than one-half of the width of any stream.

Existing Federal Regulation

Methods, means, and general restrictions.

§___.27(b)(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.

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), unless superseded by a Federal Special Action.

(e)(3)(xvi) 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:

Proposed Federal Regulation

Methods, means, and general restrictions.

§___.27(b)(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.

Yukon-Northern Area

(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), unless superseded by a Federal Special Action.

(e)(3)(xvi) 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:

(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank, unless closed by Federal special action.

Existing State Regulation

5 AAC 01.220. Lawful gear and gear specifications. – Yukon Area

(f) Unless otherwise specified in this section, fish other than salmon and halibut may be taken only by set gillnet, drift gillnet, beach seine, fish wheel, longline, fyke net, dip net, jigging gear, spear, a hook and line attached to a rod or pole, handline, or lead, subject to the following restrictions, which also apply to subsistence salmon fishing:

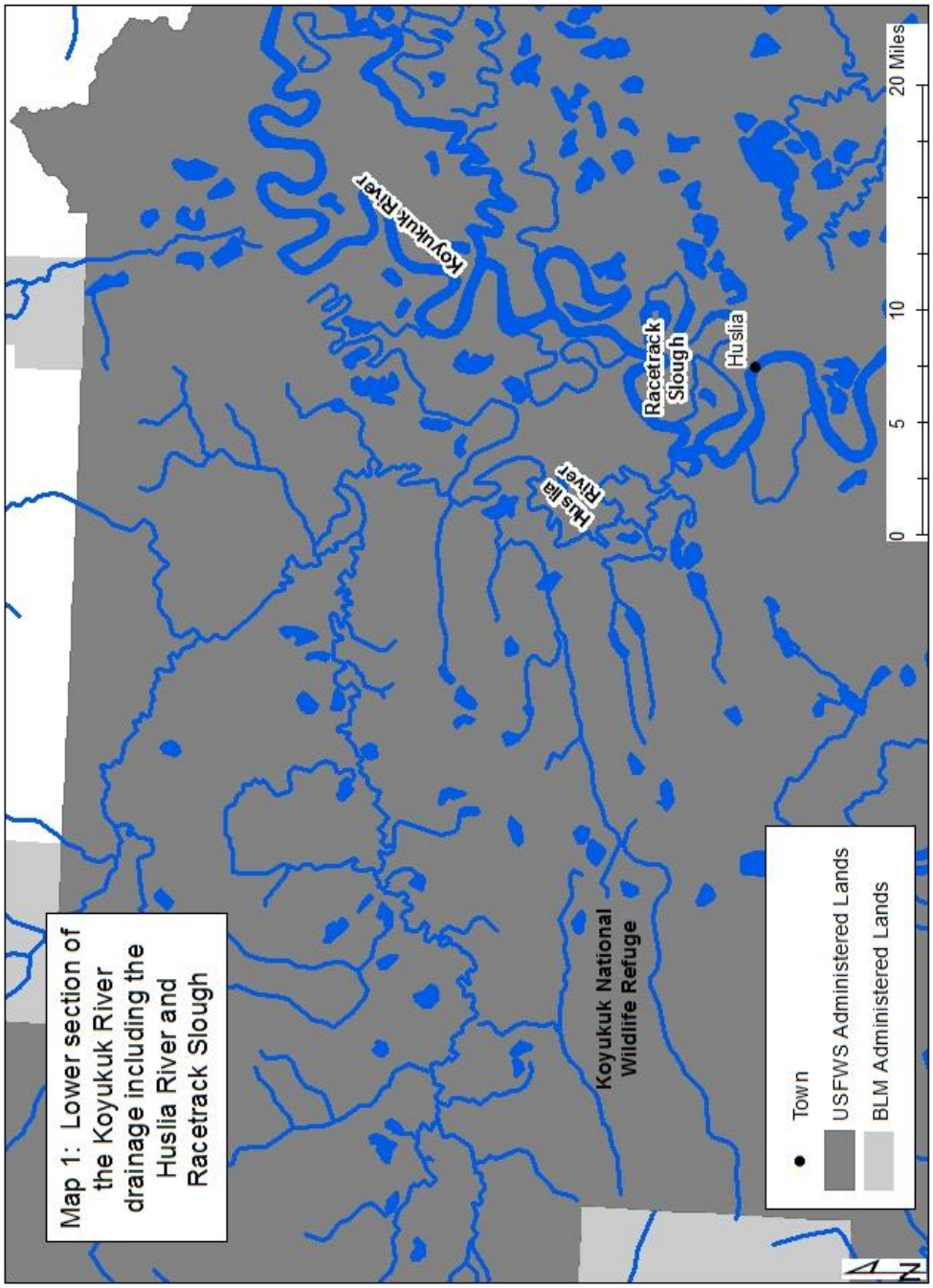
*(4) a gillnet may not obstruct more than one-half the width of any fish stream and any channel or side channel of a fish stream; a stationary fishing device may not obstruct more than one-half the width of any salmon stream and any channel or side channel of a salmon stream**,** except that in Racetrack Slough off of the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the gillnet may not be closer than 20 feet from the opposite bank, unless closed by emergency order;*

Extent of Federal Public Waters

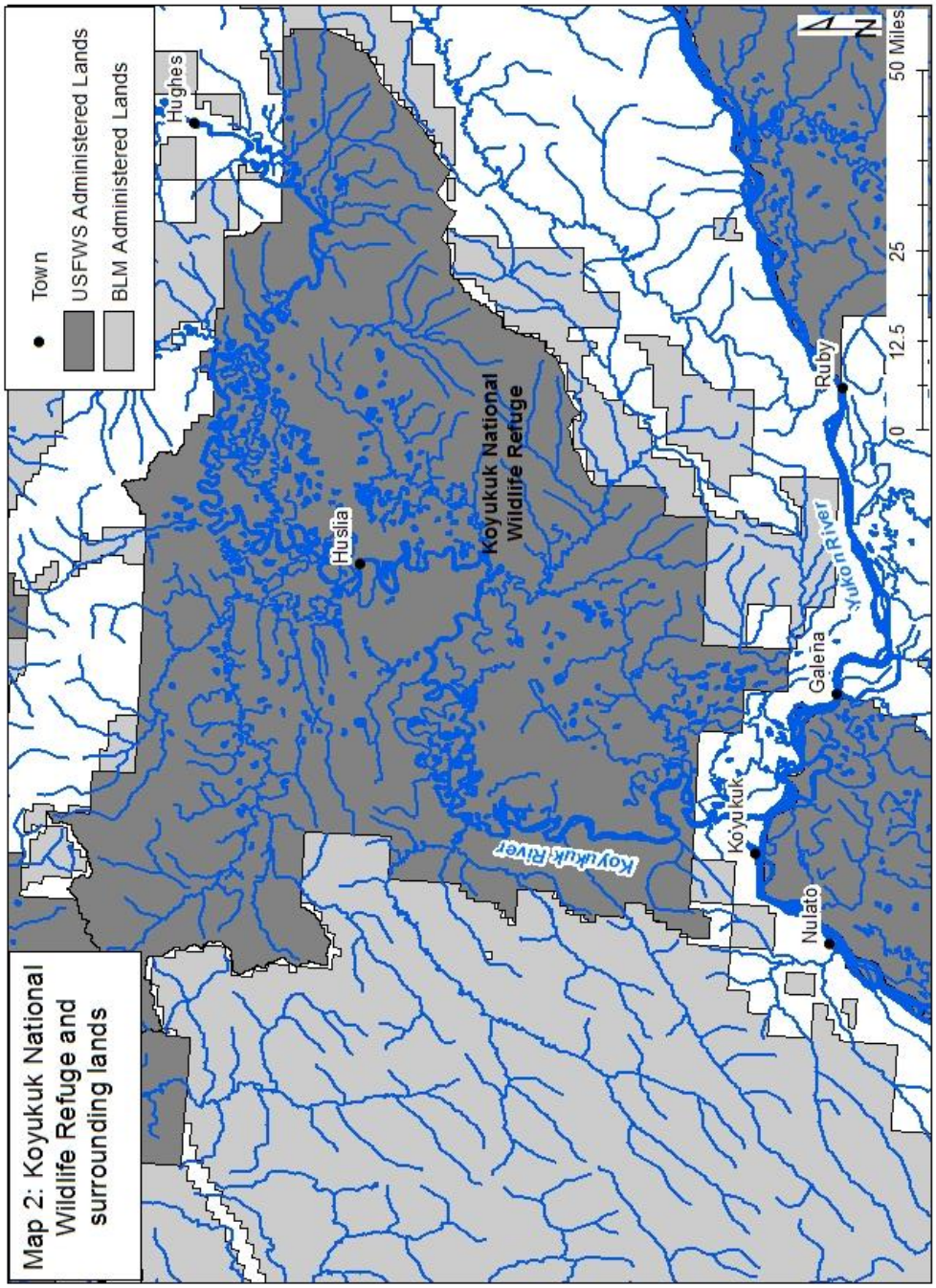
For the purpose of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Federal public waters addressed by this proposal are Racetrack Slough on the Koyukuk River (**Map 1**), as well as those portions of the Huslia River located within, or adjacent to, the external boundaries of the Koyukuk National Wildlife Refuge (**Map 2**).

Customary and Traditional Use Determinations

Residents of the Yukon-Northern Area have a customary and traditional use determination for all freshwater fish, other than salmon.



Map 1: Lower section of the Koyukuk River drainage including the Huslia River and Racetrack Slough


Map 2: Koyukuk National Wildlife Refuge and surrounding lands
Town
USFWS Administered Lands
BLM Administered Lands
Hughes
Huslia
Koyukuk National Wildlife Refuge
Koyukuk River
Koyukuk
Nulato
Galena
Yukon River
Ruby
0
12.5
25
50 Miles
N

Regulatory History

Federal subsistence fishing in the Koyukuk River for freshwater species (other than salmon) including Sheefish, whitefish, lamprey, Burbot, Longnose Sucker, Arctic Grayling, Northern Pike, char, and Alaska Blackfish is open year-round with no harvest limits. Stationary fishing gear may not obstruct more than one-half the width of any stream.

Subsistence fishing under State regulations in the Koyukuk River is open with 7.5 inch or smaller mesh size gillnets, 24 hours per day, seven days per week before June 15. These regulations restrict gillnets to obstructing not more than one-half of the width of any fish stream and any channel or side channel of a fish stream for this region. These regulations have been recently updated, however, to provide an exception for Racetrack Slough on the Koyukuk River and sloughs of the Huslia River, allowing for gillnet obstruction of all but 20 feet of a stream or channel between ice out and June 15.

This proposal was submitted to make Federal regulations more consistent with State of Alaska regulations approved by the Alaska Board of Fisheries (State Proposal 144 with modified language adopted from RC 57) at the Arctic/Yukon/Kuskokwim Finfish meeting held January 12-16, 2016.

Biological Background

Northern Pike *Esox lucius* is a freshwater fish found throughout the northern hemisphere, including the Yukon River drainage. They are opportunistic feeders that prefer soft-rayed fish such as whitefish as prey, but will consume other fish species depending on what is available (Eklöv & Hamrin 1989). They will also consume smaller pike, as well as other animals including waterfowl, frogs, insects, and small mammals like mice and shrews (Morrow 1980).

Little is known of the population numbers for Northern Pike in the region covered by this proposal. They would likely be migrating to spawning locations during the time period, which are typically shallow weedy areas (McPhail and Lindsay 1970). The species is susceptible to overharvest, which can lead to early maturation (Diana 1983) and stunting (Diana 1987).

While Northern Pike are the main targeted species identified in this proposal, other species are also present in this area and may also be captured between ice out and June 15. Surveys in the North Fork Huslia River and Billy Hawk Creek (both in the Huslia River drainage) found Broad Whitefish, Humpback Whitefish, Round Whitefish, Arctic Grayling, Longnose Sucker, and Burbot to be present (Wiswar 1994). Species present in the greater Koyukuk River drainage after mid-summer include Sheefish (Alt 1978), Chum Salmon (Wiswar 1994), Chinook Salmon, Coho Salmon, and Sockeye Salmon (Johnson and Litchfield 2015). Rates of incidental capture of other species of fish when targeting Northern Pike are unknown at this time, and may be dependent upon the mesh-size of nets in use during the time period and location specified in this request.

The proposal would revise the methods and means for this specific area through June 15, with the intent of switching back to standard regulations prior the arrival of salmon in the area. Run timing for Chinook and Chum Salmon at the Gisasa River Weir, which is on a tributary approximately 90 km upriver from the

mouth of the Koyukuk River, indicates that salmon would not be in the area covered under this proposal during the time period in question. Between the years 1995 and 2013, the earliest returns to the Gisasa weir of Chinook and Chum Salmon was June 20 and June 16, respectively (Carlson 2014). The waters that would be impacted by this proposal are approximately 300 km upriver from the mouth of the Koyukuk River, and therefore would have an even later date of return for these species.

Harvest History

Subsistence

Northern Pike is an important subsistence resource for the community of Huslia, generally ranking only behind summer Chum Salmon, fall Chum Salmon, and large whitefish in number harvested (Marcotte 1986; Jallen et al. 2015). Subsistence harvests of Northern Pike by Huslia residents averaged 1,209 fish per year (range of 94 – 5,191 fish) between 1993 and 2015 (Jallen 2016, pers. comm.).

Sport Fishing

There are no directed sport fisheries in this area, but there are a substantial number of guided moose hunters in the fall and some degree of sport fishing for Northern Pike and Arctic Grayling associated with those users (Viavant 2016, pers. comm.). For the years 1996 to 2014, harvests of Northern Pike in the Huslia River were only reported in 1997 (N=103), while catches were reported in both 1997 (N=687) and 2011 (N=35) in the Alaska Sport Fishing Survey Database (2016). No harvests were reported by this statewide survey for any other years.

Commercial Fishing

No commercial fishing takes place in this portion of the Yukon River drainage.

Cultural Knowledge and Traditional Practices

Huslia is an Athabaskan village which had a population of 274 in 2014 (City-Data.com 2016). The village is located within the Koyukuk National Wildlife Refuge on the north bank of the Koyukuk River, about 290 air miles west of Fairbanks and 170 miles by river from Galena and is dependent on subsistence resources. The current residents are descendants of Koyukon Athabascans who lived between the south fork of the Koyukuk River and the Kateel River and who hunted and fished near present day Huslia. In the mid-1800s Russian explorers made contact with their Athabascan ancestors approximately 50 miles downriver from Huslia. The community moved to their current location in 1949 because where they were located was prone to flooding and the ground was swampy. The first school was established there in 1950, followed by a post office and an airport in 1952. During this time families began to settle permanently in Huslia. The city was incorporated in 1969 (Tananachiefs.org 2016).

According to a report based on research done by Marcotte in 1983, people in Huslia harvested a variety of fish along with other subsistence resources. Fish nets were used for Sheefish and whitefish, starting in early May. Chinook and Chum Salmon were caught in set nets starting in June. Pike were caught along

with Arctic Grayling and Longnose Suckers June through October (Marcotte 1986). In 1983, 28 households reported harvesting pike with the mean household harvest of 69.5 pounds for a total community harvest of 1,947 fish. Residents reported harvesting fish in various locations near Huslia and processing fish at their fish camps which were often on their Native allotments (Marcotte 1986).

Effects of the Proposal

If FP17-04 were adopted, Federally qualified subsistence users would be allowed to use gillnets to obstruct all but 20 feet of a channel between ice out and June 15 for Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage. This would allow Federally qualified subsistence users the same opportunities as subsistence users under State of Alaska regulations. There would likely be an increase the harvest of Northern Pike and other resident fish species during this time period.

Adoption of this proposal would likely increase the rate of capture of Northern Pike and other fish species, as well as incidental capture of other animals such as ducks and small mammals. The Federal in-season fisheries manager has expressed some concern about the unknown impacts of this regulatory change, should it take place, and has suggested the use of a post-season harvest survey or registration permit to better understand use patterns and harvests (Bue 2016, pers. comm.).

If FP17-04 were not adopted, there would continue to be an inconsistency between State and Federal subsistence regulations for this area, and Federally qualified subsistence users would be held to the regional regulation allowing for obstruction of no more than one-half of a stream. This would also increase enforcement or management complexity.

OSM PRELIMINARY CONCLUSION

Support FP17-04.

Justification

Adoption of this proposal would result in additional opportunity for Federally qualified subsistence users in Racetrack Slough on the Koyukuk River and the sloughs of the Huslia River drainage. The Alaska Board of Fisheries recently authorized these same changes for this region under State of Alaska regulations. The timeline for this gear change under the proposal would curtail this activity prior the arrival of salmon into these systems.

ANALYSIS ADDENDUM

ISSUE

Discussions during the Western Interior Council meeting identified an issue with the proposed language in that the required 20 foot opening would prevent gillnet coverage of smaller sloughs in the region. Whereas a 26 wide slough could under current Federal subsistence regulation be half covered (13 feet), it could only be covered by 6 feet of net under the proposed regulation. As many of the sloughs of the Huslia River

drainage are smaller in size, this regulatory change would actually have the opposite effect that the proponent desired when submitting the proposal. The Council unanimously supported amending the proposed language to include a provision where sloughs of 40 feet wide or less may have ¾ of their width covered by a set gillnet. State and Federal subsistence regulations would remain out of alignment.

OSM CONCLUSION

Support FP17-04 with **modification** to incorporate the Western Interior Alaska Subsistence Regional Advisory Council's modified language that would allow for ¾ width coverage by net of sloughs that are 40 feet or less in width. The modified regulation should read:

> *§___.27(e)(3)(xvi)**(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank except that sloughs 40 feet or less in width may have ¾ width coverage with set gillnet, unless closed by Federal special action.***

Justification

The Council's amended proposal language would be an increase in coverage for set gillnets from the current 50% allowance, and would still allow for passage around the nets by other users of these systems.

LITERATURE CITED

Alaska Sport Fishing Survey database [Internet]. 1996–2014. Anchorage, AK: Alaska Department of Fish and Game, Division of Sport Fish (cited May 20, 2016). Available from: http://www.adfg.alaska.gov/sf/sportfishingsurvey/.

Alt, K. T. 1978. A life history and study of sheefish and whitefish in Alaska. Alaska Department of Fish and Game, Division of Sport Fish, Annual Performance Report, 1977–1978, Federal Aid in Fish Restoration, Project F-9-10, Vol. 19:1–22, R-II, Juneau, Alaska.

Bue, F. 2016. Federal In-Season Fisheries Manger. Personal communication: by telephone. Fairbanks, Alaska.

Carlson, J. G. 2014. Abundance and Run Timing of Adult Salmon in the Gisasa River, Koyukuk National Wildlife Refuge, Alaska, 2013. U.S. Fish and Wildlife Service, Fairbanks Fish and Wildlife Field Office, Alaska Fisheries Data Series 2014-7, Fairbanks, Alaska.

City-Data.com 2016. http://www.city-data.com/city/Huslia-Alaska.html. Retrieved: June 23, 2016.

Diana, J.S. 1983. Growth, maturation, and production of northern pike in three Michigan lakes. Transactions of the American Fisheries Society112: 38-46.

Diana, J.S. 1987. Simulation of mechanisms causing stunting in northern pike populations. Transactions of the American Fisheries Society 116:612-617.

Eklöv, P. & Hamrin, S.F. 1989. Predatory efficiency and prey selection: interactions between pike *Esox lucius*, perch *Perca fluviatilis* and rudd *Scardinus erythrophthalmus*. Oikos: 56: 149–156.

Jallen, D. 2016. Personal communication. Alaska Department of Fish and Game, Division of Commercial Fisheries: by telephone. Fairbanks, Alaska.

Jallen, D. M., S.K.S. Decker, and T. Hamazaki. 2015. Subsistence and Personal Use Salmon Harvests in the Alaska Portion of the Yukon River Drainage, 2012. Alaska Department of Fish and Game, Fishery Data Series No. 15-28, Anchorage, Alaska.

Johnson, J. and V. Litchfield. 2015. Catalog of waters important for spawning, rearing, or migration of anadromous fishes – Interior Region, Effective June 1, 2015, Alaska Department of Fish and Game, Special Publication No. 15-06, Anchorage, Alaska.

Marcotte, J.R. 1986. Contemporary resource use patterns in Huslia, Alaska, 1983. Alaska Department of Fish and Game, Technical Paper No. 133, Fairbanks, Alaska.

McPhail, J.D. and C.C. Lindsay. 1970. Freshwater fishes of Northwestern Canada and Alaska. Fisheries Research Board of Canada, Bulletin 173, Ottawa.

Morrow, J. E. 1980. The freshwater fishes of Alaska. Alaska Northwest Publishing Company, Anchorage, Alaska.

Marcotte, J. 1986. Contemporary Resource Use Patterns in Huslia, Alaska, 1983. Alaska Department of Fish and Game, 1986.

Tananchiefs.org. 2016. Communities in Our Region. https://www.tananachiefs.org/about/communities/huslia/. Retrieved: June 22, 2016.

Viavant, T. 2016. Personal communication. Alaska Department of Fish and Game, Regional Sport Fishery Management Coordinator for Interior Alaska: by telephone. Fairbanks, Alaska.

Wiswar, D. W. 1994. Fish surveys in the Honhosa River, North Fork Huslia River, and Billy Hawk Creek, Koyukuk National Wildlife Refuge, Alaska, 1993. U.S. Fish and Wildlife Service, Fairbanks Fishery Resource Office, Fishery Data Series 94-2, Fairbanks, Alaska.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Support FP17-04 **as modified by the Western Interior Alaska Subsistence Regional Advisory Council**. The Council confirmed that this proposal made sense based on their experiences and that pike is an important subsistence food. The Council referenced the OSM justification that the proposed use of gillnets on the Koyukuk River would increase subsistence opportunity for people in that region and the harvest would take place prior to the arrival of salmon so it did not pose a conservation concern.

Western Interior Alaska Subsistence Regional Advisory Council

Support FP17-04 **with modification**. The Council modified the original proposal in the following ways. 1) Gillnets may not be closer than 20 feet from the opposite bank, unless closed by Federal special action, while sloughs that are less than 40 feet may have ¾ coverage of net. The Council emphasized the need to accommodate customary practices without becoming mired in the distance from the bank. 2) Inserting a navigation provision to prevent the obstruction of vessel passage and promote the flexibility of enforcement. 3) The Council added a concern is to address predation. The Council emphasized that pike are utilized for non-wasteful consumptive subsistence use.

Seward Peninsula Subsistence Regional Advisory Council

Take no action on FP17-04. The Council did not feel this was a resource used by qualified users in the Seward Peninsula region. The Council also heard differing opinions between the State and other Council positions, and determined it was best to take no action on this proposal.

Eastern Interior Alaska Subsistence Regional Advisory Council

Take no action on FP17-04. The Council took no action, preferring to defer to home region area in proposal as the Huslia River drainage is over 400 river miles away from the region.

North Slope Subsistence Regional Advisory Council

Support FP17-04 **as modified by the Western Interior Alaska Subsistence Regional Advisory Council**. The Council discussed that they support the "home region" Council that submitted the proposal, citing that based on the analysis the Western Interior Alaska Subsistence Regional Advisory Council has done their homework and know the issue and region well. The Council noted that there is little fishing by North Slope region residents that occurs in this area and thus they do not want to interfere with the local fisheries management and will support the Western Interior Alaska Regional Advisory Council on this proposal.

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

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-04: This proposal was submitted by the Western Interior Alaska Subsistence Regional Advisory Council and requests gillnets be allowed to obstruct more than one half the width of Racetrack Slough on the Koyukuk River, and sloughs of the Huslia River drainage, between ice out and June 15.

Background: Federal regulations currently allow the use of gillnets but do not allow a gillnet to obstruct more than one half of the width of any stream. The Alaska Board of Fisheries passed State regulations at the past January 2016 AYK meeting and concern was expressed by enforcement, staff and board members.

Impact on Subsistence Users: The proposed change would align Federal and State regulations to allow subsistence users more harvest opportunity for northern pike in Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage.

Impact on Other Users: None.

Opportunities Provided by State: 5 AAC 01.220. Lawful gear and gear specifications (a) Salmon may be taken only by gillnet, beach seine, a hook and line attached to a rod or pole, handline, or fish wheel, subject to the restrictions set out in this section, 5 AAC 01.210, and 5 AAC 01.225 - 5 AAC 01.249.
(f) Unless otherwise specified in this section, fish other than salmon and halibut may be taken only by set gillnet, drift gillnet, beach seine, fish wheel, longline, fyke net, dip net, jigging gear, spear, a hook and line attached to a rod or pole, handline, or lead, subject to the following restrictions, which also apply to subsistence salmon fishing:

> (4) a gillnet may not obstruct more than one-half the width of any fish stream and any channel or side channel of a fish stream; a stationary fishing device may not obstruct more than one-half the width of any salmon stream and any channel or side channel of a salmon stream, except that in Racetrack Slough off of the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of a set gillnet may not be closer than 20 feet from the opposite bank, unless closed by emergency order;

Recommendation: The State SUPPORTS the proposal as written, but is OPPOSED to the modification to allow ¾ width coverage by net of sloughs that are 40 feet or less in width. This would bring regulations out of alignment with the State. The proposal as written would simplify enforcement by providing consistency between federal and state regulations but with the modification will prove challenging for enforcement.

FP17-05 Executive Summary	
General Description	Proposal FP17-05 requests that Federal subsistence management plans, strategies, fishing schedules, openings, closings, and fishing methods for the Kuskokwim Area be issued independently by the Federal Subsistence Management Program in consultation with appropriate agencies and entities. *Submitted by: LaMont E. Albertson.*
Proposed Regulation	*§___.27(e)(4)(ii) For the Kuskokwim area, Federal subsistence* ***management plans, strategies,*** *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.*~~ ***issued independently by the Federal Subsistence Program, including Federal In-Season Manager in consultation with appropriate agencies and entities.***
OSM Conclusion	**Defer**
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Support**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Interagency Staff Committee Comments	**See page 134**
ADF&G Comments	**Oppose**
Written Public Comments	**None**

STAFF ANALYSIS
FP17-05

ISSUES

Proposal FP17-05, submitted by LaMont E. Albertson, requests that Federal subsistence management plans, strategies, fishing schedules, openings, closings and fishing methods for the Kuskokwim Area be issued independently by the Federal Subsistence Management Program in consultation with appropriate agencies and entities.

DISCUSSION

The proponent notes that provisions of ANILCA and the applicable Federal land management missions and mandates differ in certain critically important ways from Alaska Statute. The proponent states that changing this regulation is necessary for ensuring that Federal subsistence management practices align with Federal mandates in the Kuskokwim region. The proponent notes that there are many cases where it is appropriate for Federal fisheries management plans and actions to mirror those of the State of Alaska, and that the proposed regulation change is not intended to discourage or impede unified regulations when appropriate. The proponent believes that existing regulations severely limit the ability for the Federal subsistence program to exercise independent judgment, and would like to see additional latitude for Federal managers to issue independent management plans, strategies, and fishing schedules when necessary to achieve the mandates and mission of ANILCA. The proponent noted that existing regulatory language may have been a necessary stop gap measure when the Service did not possess their own fisheries management expertise, but this is no longer the case and it is now necessary to provide the Service the latitude necessary to meet program mandates.

The proponent clarified the proposal during telephone discussions on May 17 and June 27, 2016 and in an e-mail from the proponent on June 22, 2016. The proponent is seeking to remove language stating that Federal subsistence fishing regulations for the Kuskokwim Area, "*are the same as issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by Federal Special Action*". The proponent wants the Federal Subsistence Management Program, including the Federal In-Season Manager, to work with the Alaska Department of Fish and Game (ADF&G) (including direct participation of the Kuskokwim River Salmon Management Working Group), and the Kuskokwim River Inter-Tribal Fish Commission to determine a management strategy for Kuskokwim Area fisheries. The proponent clarified that he is supportive of the Regional Advisory Council and Federal Subsistence Board (Board) process.

Existing Federal Regulations

Fishery Management area restrictions for the Kuskokwim Area

50 CFR 100.27(e)(4)(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.

Proposed Federal Regulation

Fishery Management area restrictions for the Kuskokwim Area

For the Kuskokwim area, Federal subsistence ***management plans, strategies,*** *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.~~* ***issued independently by the Federal Subsistence Program, including Federal In-Season Manager in consultation with appropriate agencies and entities.***

Existing State Regulation

Sec. 16.05.060. Emergency orders

(a) This chapter does not limit the power of the commissioner or an authorized designee, when circumstances require, to summarily open or close seasons or areas or to change weekly closed periods on fish or game by means of emergency orders.

(b) The commissioner or an authorized designee may, under criteria adopted by the Board of Fisheries, summarily increase or decrease sport fish bag limits or modify methods of harvest for sport fish by means of emergency orders.

(c) An emergency order has the force and effect of law after field announcement by the commissioner or an authorized designee. An emergency order adopted under this section is not subject to AS 44.62 (Administrative Procedure Act).

5 AAC 07.365. Kuskokwim River Salmon Management Plan

(a) The purpose of this management plan is to provide guidelines for management of the Kuskokwim River salmon fisheries that result in the sustained yield of salmon stocks large enough to meet escapement goals, amounts reasonably necessary for subsistence uses, and for nonsubsistence fisheries. The department shall use the best available data, including preseason and inseason run projections, test fishing indices, age and sex composition, harvest reports, passage escapement estimates, and recognized uncertainty, to assess run abundance for the purpose of implementing this plan.

(b) It is the intent of the Board of Fisheries that the Kuskokwim River salmon stocks shall be managed in a conservative manner consistent with the Policy for the Management of Sustainable Salmon Fisheries under 5 AAC 39.222 to meet escapement goals and the subsistence priority.

(c) In the king salmon fishery,

(1) when the projected escapement of king salmon is below the drainagewide escapement goal range, the commissioner shall, by emergency order, close the commercial, sport, and subsistence king salmon fisheries;

(2) when the projected escapement of king salmon is within the drainagewide escapement goal range, the commissioner shall open and close fishing periods, by emergency order, as follows:

(A) to the extent practicable, at least one fishing period per week will be opened for a directed subsistence king salmon fishery to provide harvest opportunity on surplus king salmon in excess of escapement needs, except that when surplus king salmon in excess of the drainagewide escapement goal is limited, the commissioner may, by emergency order, close the subsistence fishery and immediately reopen a subsistence fishery during which

(i) king salmon may be taken only by persons 60 years of age or older; and

(ii) a person authorized to take king salmon under (i) of this paragraph may not authorize a proxy to take or attempt to take king salmon under AS 16.05.405 or 5 AAC 01.011, but the participant may be assisted by family members within the second degree of kindred; in this sub-subparagraph, "within the second degree of kindred" has the meaning given in 5 AAC 92.990(a) ;

(B) fishing may be opened for commercial and sport fisheries to provide harvest opportunity on surplus king salmon in excess of escapement and subsistence needs;

(3) when the projected escapement of king salmon exceeds the drainagewide escapement goal range, the

(A) directed subsistence king salmon fishery will be open seven days per week; and

(B) commercial and sport fisheries will be managed to provide harvest opportunity on surplus king salmon in excess of escapement and subsistence needs.

(d) In the subsistence fishery, in the Kuskokwim River drainage, in the waters of the mainstem of the river and other salmon spawning tributaries, unless otherwise specified by the department,

(1) the subsistence salmon net and fish wheel fisheries will be open seven days per week, except that if the commissioner determines that it is necessary in order to achieve escapement goals, the commissioner may alter fishing periods, by emergency order, based on run abundance;

(2) the commissioner may implement one or more of the gear limitations as described in 5 AAC 01.270(n) during times the commissioner determines that it is necessary for the conservation of king salmon;

(A) the gillnet mesh size may not exceed four inches until sockeye and chum salmon abundance exceeds the king salmon abundance;

(B) a gillnet may not exceed 25 fathoms in length, except that a longer gillnet may be used if no more than 25 fathoms of the gillnet is in a fishing condition and the remainder of the gillnet is tied up or secured so that it is not in the water in a fishing condition;

(C) a person may fish for salmon with a dip net, as defined in 5 AAC 39.105, and all king salmon caught by a dip net must be returned immediately to the water unharmed;

(3) actions to conserve king salmon may be applied to the entire Kuskokwim River, its sections, or tributaries, consistent with harvest trends and variability in abundance of king salmon available for harvest as the run progresses upstream;

(4) the commissioner may alter the subsistence hook and line bag and possession limits specified in 5 AAC 01.295, by emergency order, if the commissioner determines that inseason information indicates it is necessary for conservation purposes.

(e) In the commercial fishery,

(1) the guideline harvest level for king salmon and sockeye salmon is as follows:

(A) 0 - 50,000 king salmon;

(B) 0 - 50,000 sockeye salmon;

(2) only the waters of District 1 may be opened during the first commercial salmon fishing period;

(3) the commissioner shall open and close the Kuskokwim River commercial salmon fishery, by emergency order, if inseason information indicates a run strength that is large

enough to provide for a harvestable surplus and a reasonable opportunity for subsistence uses and for nonsubsistence fisheries;

(4) the department shall provide, to the extent practicable, at least 24 hours advance notice of the opening of Districts 1 and 2 commercial fishing periods;

(5) Districts 1 and 2 commercial fishing periods are from 12:00 p.m. through 6:00 p.m.; when longer fishing periods are allowed, the extra time is to be divided before 12:00 p.m. and after 6:00 p.m.;

(6) the department shall manage the commercial fishery to ensure there is no significant impact on escapement or allocations of salmon species as a result of incidental harvest in commercial fisheries directed at other salmon species;

(7) in June and when king salmon are abundant, the department shall manage the commercial fishery conservatively to ensure king salmon escapement goals are achieved and reasonable opportunity for subsistence uses is provided in consideration of harvest trends and abundance of king salmon available for the subsistence fishery, as follows:

(A) when the projected escapement of king salmon is within the drainagewide escapement goal range,

(i) the first opening may not occur until after June 23;

(ii) only the waters of Subdistrict 1-B may be opened during the first commercial fishing period;

(iii) at least 72 hours must pass between the first Subdistrict 1-B opening and the first Subdistrict 1-A opening;

(B) when the projected escapement of king salmon exceeds the drainagewide escapement goal range, the commercial fishery will be managed to provide harvest opportunity on surplus king salmon in excess of escapement and subsistence needs;

(8) when chum salmon abundance exceeds king salmon relative abundance, the department shall manage, to the extent practicable, the commercial salmon fishery based on chum salmon run strength;

(9) when coho salmon abundance exceeds chum salmon abundance, the department shall manage, to the extent practicable, the commercial salmon fishery based on coho salmon run strength;

(10) a person may not sell salmon roe taken in Districts 1 and 2.

(f) In the sport fishery,

(1) if the commissioner restricts the fishery, by emergency order, for conservation purposes, the restrictions must be based on the level of abundance;

(2) in the Aniak River drainage, the king salmon fishery is open from May 1 through July 25, with a bag and possession limit of two fish, 20 inches or greater in length, with an annual limit of two fish, 20 inches or greater in length; the sockeye, pink, chum, and coho salmon fisheries are open year round, with a combined daily bag and possession limit of three fish, of which no more than two fish may be king salmon;

(3) actions to conserve king salmon will only be implemented when king salmon are present, consistent with migratory timing as the run progresses upstream.

Extent of Federal Public Lands

For the purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 50 CFR 100.3. The Kuskokwim Area includes all waters of Alaska between the latitude of the westernmost point of the Naskonat Peninsula and the latitude of the southernmost tip of Cape Newenham including the waters of Alaska surrounding Nunivak and Saint Matthew Islands and those waters draining into the Bering Sea. The Kuskokwim Area includes waters that are within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge, Togiak National Wildlife Refuge, Lake Clark National Park and Preserve and the Denali National Park and Preserve. This includes portions of Districts 1 and 2 of the Kuskokwim Fishery Management Area; these waters are generally described as the lower Kuskokwim River drainage from the mouth upriver to and including about 30 miles of the Aniak River.

Customary and Traditional Use Determinations

The Board has recognized the following customary and traditional uses (50 CFR 100.24) of fish in freshwater for the Kuskokwim Area:

Salmon- Residents of the Kuskokwim Area, except those persons residing on United States military installations located on Cape Newenham, Sparrevohn USAFB, and Tatalina USAFB

Rainbow trout- 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

All Other fish- Residents of the Kuskokwim Area, except those persons residing on United States military installations located on Cape Newenham, Sparrevohn USAFB, and Tatalina USAFB

Regulatory History

In April 2000, an Interim Memorandum of Agreement (MOA) between the agencies on the Board and ADF&G provided a foundation for coordinated Federal-State fisheries management and subsistence use on Federal public lands in Alaska. In 2008, the Board, the Alaska Boards of Fisheries and Game, and ADF&G signed a Memorandum of Understanding (MOU) to provide the basis for coordinated Federal-State fisheries management and subsistence use on Federal public lands in Alaska. The MOU between the Board, the State Boards of Fisheries and Game, and ADF&G expired in November 2014; however, this agreement may be reconsidered in 2016/2017 (FSB 2016).

In 2002, the Office of Subsistence Management (OSM) submitted a Fisheries Special Action request (FSA02-01) to the Board requesting streamlining of the special action process for the Yukon and Kuskokwim Rivers during the 2002 fishing season (Kron 2002, pers. comm.). Based on input from OSM staff, the Interagency Staff Committee and recommendations from the Yukon-Kuskokwim Delta, Seward Peninsula, and the Eastern Interior Alaska and Western Interior Alaska Regional Advisory Councils, the Board adopted the following wording based on Fisheries Proposal FP03-28: "*For the Yukon and Kuskokwim areas, 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*". In 2007 similar wording was adopted by the Board for salmon in the Chignik Area. Only these three (Kuskokwim, Yukon and Chignik) of the thirteen Federal fishery management areas in Alaska currently include regulatory wording that specifies that Federal Subsistence fishing openings, closings and fishing methods are; "*the same as those issued for subsistence taking of fish under Alaska Statutes (AS16.05.060), unless superseded by Federal Special Action*". Fishery management regulations for the Kotzebue, Norton Sound-Port Clarence, Bristol Bay, Aleutian Islands, Alaska Peninsula, Kodiak, Cook Inlet, Prince William Sound, Yakutat and Southeast Alaska Areas do not contain the referenced to regulations being; "the same as those issued under Alaska Statutes (AS16.05.060), unless superseded by Federal Special Action".

Current general Federal Subsistence Management Program regulations concerning these issues statewide are as follows:

> *50 CFR 100.14- Relationships to State procedures and regulations: (a) State fish and game regulations apply to public lands and such laws are hereby adopted and made part of the regulations in this part to the extent they are not inconsistent with, or superseded by, the regulations in this part.*
>
> *50 CFR 100.27(b)(16)(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.*

The Federal Subsistence Board has delegated in-season management responsibility for the Kuskokwim Area to the Yukon Delta National Wildlife Refuge Manager (**Appendix A**, May 3, 2002).

Since the Yukon and Kuskokwim Rivers subsistence regulations were first adopted by the Board in 2003, much has changed on the Kuskokwim River. Chinook Salmon returns and subsistence harvests have declined, and harvest regulations have become more restrictive. Chinook Salmon escapements dropped to record low levels in 2010, 2012 and 2013. There have been closures to fishing and ANILCA Section 804 analyses/determinations. The Federal Subsistence Management Program has been much more involved in the Kuskokwim River fisheries management in recent years.

Current Events Involving Management of the Species

In 2011, the Department of Interior adopted a policy with Federally recognized Indian Tribes that reflects a commitment to enhance government to government consultation (DOI 2011). In 2012, the Federal Subsistence Board adopted their Government-to-Government, Tribal Consultation Policy (FSB 2012). This policy acknowledges that consultation is not always possible for in-season management decisions and special actions due to the quick turnaround times required but also notes that, to the extent practicable, two-way communication will take place before decisions are implemented.

In 2016, an MOU was signed between the U.S. Department of Interior, U.S. Fish and Wildlife Service and the Kuskokwim River Inter-Tribal Fish Commission (KRITFC) (MOU 2016) as a part of a Kuskokwim River Partnership Project (Partnership Project). The Kuskokwim River Tribes established the KRITFC for the purpose of engagement in the management of Kuskokwim River fisheries. Based on the MOU, the USFWS and the KRITFC will consult for the purpose of collaboratively making fisheries management decisions, including in-season actions with the integration and application of KRITFC knowledge, information and management strategies.

A second portion of the Partnership Project is the collaborative development of a joint subcommittee comprised of members of the Western Interior Alaska and Yukon-Kuskokwim Delta Subsistence Regional Advisory Councils (Councils), which is still in development. The joint subcommittee would make recommendations to the Councils on proposals for regulations, policies, management plans, in-season management special actions and other matters relating to management, conservation and subsistence uses of fish in the Kuskokwim River Area. At the a fall 2016 Council meetings, the Yukon-Kuskokwim Delta Subsistence Regional Advisory Council and the Western Interior Alaska Subsistence Regional Advisory Council each named a person to work on this on-going process. Board action required to implement the Kuskokwim River joint subcommittee portion of the Kuskokwim River Partnership Project has not yet occurred.

Effects of the Proposal

The proposal requests that "management plans, strategies" be added to existing regulatory language. These are normal components of fishery management; aspects of both are already occurring and the Kuskokwim River Partnership Project will focus on these efforts when fully implemented. The proposal requests that prescriptive wording ("*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") be removed from Kuskokwim Area Federal subsistence regulations. Removing this language before all aspects of the Partnership Project have been fully implemented could result in ambiguity regarding how in-season management would proceed in years during which no concerns about resource conservation or the continuation of subsistence uses have been identified.

As written, the proposal does not specifically acknowledge the role of the Subsistence Regional Advisory Councils, the Federal Subsistence Board or the Secretaries' delegation of authority directly to the Board. Clarifying discussions with the proponent revealed that he does support these aspects of the Federal Subsistence Management Program, including the collaborative process outlined in the Partnership Project for fishery management on the Kuskokwim River. However, based on a review of discussions with the proponent at the Yukon-Kuskokwim Delta Subsistence Regional Advisory Council and Western Interior Alaska Subsistence Regional Advisory Council meetings, as well as comments received from the Interagency Staff Committee, the proposed regulatory change may not fully reflect the intended collaborative process. Furthermore, the proposed regulatory language does not provide sufficient detail about the structure, content or scope of proposed Federal subsistence management plans and strategies to fully assess the effects of mandating that these be issued independently by the Federal Subsistence Management Program. Finally, adopting this proposal before the collaborative decision making process outlined in the Kuskokwim River Partnership Project, Memorandum of Understanding (MOU) has not been implemented in its entirety, including Board action to authorize a Subsistence Regional Advisory Council subcommittee jointly chartered by the Western Interior Alaska and Yukon-Kuskokwim Delta Subsistence Regional Advisory Councils, may be premature.

OSM CONCLUSION

Defer FP17-05 and revise Delegation of Authority letter for the Kuskokwim Area to address the proponent's concerns regarding collaborative development of in-season management plans and strategies on an annual basis, in accordance with the goals and objectives of the Kuskokwim River Partnership Project.

Justification

The Kuskokwim River Partnership Project is intended to provide a mechanism to meaningfully integrate Kuskokwim tribes and Federally qualified subsistence users into the decision making process for fisheries management on Federal public waters of the Kuskokwim River drainage. The Partnership Project aims to develop unified recommendations for fishery management for the Kuskokwim River drainage, including the development of a unified management strategy and associated in-season management decisions for the Kuskokwim River. While a signed MOU is in place to outline how tribal interests will be integrated into the in-season decision making process, the second part of the Partnership Project focusing on Federally qualified subsistence users, has not yet been implemented via Regional Advisory Councils and Board action. Deferring Fisheries Proposal FP17-05 will provide time for full implementation of all aspects of the Kuskokwim River Partnership Project before decisions are made about the necessity of regulatory changes to the Federal subsistence regulations.

However, the proponent has identified a number of important concerns regarding the ways in which current in-season management may occur within the context of delegated authority from the Board and in accordance with the goals and objectives of the Kuskokwim River Partnership Project. To address these concerns and help facilitate the Partnership Project, it is recommended that the Delegation of Authority letter from the Board be revised with specific guidance about annual expectations for collaboration among identified stakeholders, carrying out fishery management decision making processes and requirements for issuing special actions (e.g., a general schedule for annually developing management strategies, goals and objectives of in season management, making determinations about assimilating Alaska Statutes for the subsistence taking of fish, etc.). The updated letter of delegation would also require collaboration between the in-season manager, representatives from the Federal Subsistence Management Program, any local advisory committees authorized under ANILCA Section 805 and Federal and State sanctioned entities to accomplish an annual determination and written report to the Board regarding whether conditions warrant Federal management of subsistence fisheries on the Kuskokwim River. Such revisions to the delegation of authority letter for the Kuskokwim Area will provide clarity in terms of roles, responsibilities, participatory decision making and Board expectations regarding in-season management of subsistence fisheries on the Kuskokwim River. The letter of delegation for the Kuskokwim is more than 14 years old. OSM is in the process of revising letters of letters of delegation for all areas of Alaska for the Board's consideration.

LITERATURE CITED

DOI. 2011. Department of Interior Policy on Consultation with Indian Tribes. Policy implemented to help meet the obligation for meaningful consultation with Indian Tribes. 14 pp.

FSB. 2012. Federal Subsistence Board, Government-to-Government, Tribal Consultation Policy. FWS, Office of Subsistence Management. Anchorage, AK. 6pp.

FSB. 2016. Letter from the Federal Subsistence Board, March 1, 2016. FWS, Office of Subsistence Management. Anchorage, AK.

Kron, T. 2002. Fishery Biologist. Personal Communication: Draft Staff Analysis for Fisheries Special Action (FSA02-01). OSM electronic files. Anchorage, AK.

MOU 2016. Memorandum of Understanding between the United States Department of the Interior U.S. Fish and Wildlife Service Alaska Region and the Kuskokwim River Inter-Tribal Fish Commission. 8pp.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Support FP 17-05. The Council emphasized the importance of everyone on the Kuskokwim having a seat at the table in the salmon management decision making process. They stressed that Tribal consultation and input from subsistence fishers that inhabit fish camps is essential in informing management decisions including when conditions are conducive to successfully drying fish. The Council noted the proposal would provide a stronger framework for much needed coordination between the Federal and State managers and Tribal communities along the Kuskokwim River. The Council was very pleased with the involvement of the Federal Inseason Managers with the Kuskokwim River Intertribal Fish Commission this past summer and felt scientific and local and traditional knowledge were brought to the table and considered in a collaborative decision making process. The Council feels that this proposal would further these efforts by formalizing the working relationship with the Federal managers and Kuskokwim Tribes and subsistence fishers and ensure the State participation through the establishment of this regulatory framework.

The Council stressed the need to engage all stakeholders in the decision making process and affirmed the proposal will be a tool to ensure all entities on the Kuskokwim River are working in collaboration on inseason fisheries management.

Western Interior Alaska Subsistence Regional Advisory Council

Support FP 17-05. The Council emphasized the Kuskokwim Area is a major subsistence fishery. The Council noted the proposal would provide a forum for much needed coordination, though it unclear how implementation would be conducted. The Council stressed the need to engage all stakeholders in the decision making process. The Council affirmed the proposal will bring together all entities on the Kuskokwim River to establish coordinated fisheries management.

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.

While the Interagency Staff Committee supports the intent of the proposal to work toward a unified management strategy for Kuskokwim River fisheries, the Board may want to consider deferring action until the collaborative management aspects of the Kuskokwim River Partnership Project are more established. Further, there are aspects of the proposed regulatory language that may need additional vetting. The regulatory requirement for Federal subsistence management plans and strategies would be unique to the Kuskokwim River Area; however, there have not been any substantive discussion with public involvement about how the proposed management plans and strategies are developed.

The Board may want to consider which aspects of the proposal could be included in an updated Delegation of Authority Letter, which directs how the Federal in-season manager issues emergency special action. The letter includes guidelines on notification and consultation with affected agencies and entities. Delegation of authority letters can be updated at the discretion of the Board.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-05: This proposal was submitted by LaMont E. Albertson and requests that Federal subsistence management plans, strategies, fishing schedules, openings, closings, and fishing methods for the Kuskokwim Area be issued independently by the Federal Subsistence Management Program in consultation with appropriate agencies and entities.

Background: This proposal seeks to remove language from federal regulation that states 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. There have been various clarifications on the intent expressed by the proponent since the proposal was published.

Recent sharp declines in Chinook salmon abundance have caused severe hardship for fishery-dependent communities in the Kuskokwim Area.

Impact on Subsistence Users: If adopted as written, management would be split, rather than aligned, resulting in confusion for subsistence users.

Impact on Other Users: With two management plans in place, and the resultant confusion, it is not certain that other uses and users could be provided for.

Opportunities Provided by State: Regulatory authority for Kuskokwim River salmon management is shared by the Federal Subsistence Board and the State of Alaska Board of Fisheries. The State is responsible for implementing regulations in accordance with the *Kuskokwim River Salmon Management Plan* (5 AAC 07.365) unless the Federal subsistence program determines that all non-Federally-qualified subsistence uses must be eliminated in order to meet the Federal subsistence priority. Subsistence salmon harvest in the Kuskokwim River is allowed without a permit and with no closed season or bag limits (with an exception for the Aniak River). Legal gear includes gillnets, hook and line, seines, and fish wheels.

Recommendation: The State OPPOSES this proposal as written, but SUPPORTS the clarified intent of the proposal to increase collaboration among State and Federal fisheries management authorities so that subsistence uses continue to be the priority use for Kuskokwim River fish stocks. The State SUPPORTS

clarifying the delegation of authority to the Federal inseason manager, and stands ready to provide biological and management expertise to that effort.

Appendix A

Federal Subsistence Board

3601 C Street, Suite 1030
Anchorage, Alaska 99503

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

FOREST SERVICE

FWS/OSM/C:/ReardenInSeason

MAY -3 2002

Mr. Michael Rearden, Manager
U.S. Fish and Wildlife Service
Yukon Delta National Wildlife Refuge
P.O. Box 346
Bethel, Alaska 99559

Dear Mr. Rearden:

This letter delegates specific regulatory authority from the Federal Subsistence Board to you as Manager of the Yukon Delta National Wildlife Refuge to issue special actions when necessary to assure the conservation of healthy fish stocks and to provide for subsistence uses of fish in Federal waters subject to ANILCA Title VIII (Federal waters) in the Kuskokwim Area, including the Goodnews and Kanektok Rivers.

Overview

Federal managers are responsible for local management of subsistence fishing by qualified rural residents in Federal waters; this includes the authority to restrict all uses in Federal waters if necessary to conserve healthy fish stocks or to provide for subsistence uses in Federal waters. State managers are responsible for in-season management of State subsistence, commercial, recreational, and personal use fisheries in all waters.

It is the intent of the Federal Subsistence Board that subsistence fisheries management by Federal officials be coordinated with the Alaska Department of Fish and Game and involve Regional Advisory Council representatives to conserve healthy fish stocks while providing for subsistence uses. Federal managers are expected to cooperate with State managers and minimize disruption to resource users and existing agency programs, as agreed to under the Interim Memorandum of Agreement for Coordinated Fisheries and Wildlife Management for Subsistence Uses on Federal Public Lands in Alaska.

FEDERAL FISHERIES MANAGEMENT
DELEGATION OF AUTHORITY

1. **Delegation:** The Manager of the Yukon Delta National Wildlife Refuge is hereby delegated authority to issue emergency regulations (special actions) affecting fisheries in Federal waters as outlined under **3. Scope of Delegation**.

2. **Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which states: "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(d) and 50 CFR 100.19(d). 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 waters to non-subsistence 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 fish stocks or to continue subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations, shall be directed to the Federal Subsistence Board.

The Federal waters subject to this delegated authority are those within the Kuskokwim Area (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). The Refuge Manager will coordinate all local fishery decisions with all affected Federal land managers.

4. **Effective Period:** This delegation of authority is effective until superseded or rescinded.

5. **Criteria for Review of Proposed Special Actions:** The Refuge Manager will use the following considerations to determine the appropriate course of action when reviewing proposed special actions.

   1. Does the proposed special action fall within the geographic and regulatory scope of delegation?

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2. Does the proposed special action need to be implemented immediately as a special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the annual regulatory cycle?

3. Does the supporting information in the proposed special action substantiate the need for the action?

4. Are the assertions in the proposed special action confirmed by available current biological information and/or by other affected subsistence users?

5. Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?

6. Is the proposed special action likely to achieve the expected results?

7. Have the perspectives of ADF&G managers and Regional Advisory Council representatives been fully considered in the review of the proposed special action?

8. Have the potential impacts of the proposed special action on all affected subsistence users within the drainage been considered?

9. Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?

10. After evaluating all information and weighing the merits of the special action against other actions, including no action, is the special action reasonable, rational and responsible?

6. **Guidelines for Delegation:**

1. The Refuge Manager 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.

2. The Refuge Manager will review special action requests or situations that may require a special action and all supporting information to determine (1) if the request/situation falls within the scope of authority, (2) if significant conservation problems or subsistence harvest concerns are indicated, and (3) what the consequences of taking an action may be on potentially affected subsistence users and non-subsistence users. Requests not within the delegated authority of the Refuge Manager will be forwarded to the Federal Subsistence Board for consideration. The Refuge Manager will keep a record of all special action requests and their disposition.

3. The Refuge Manager will immediately notify the Federal Subsistence Board through Tom Boyd, Assistant Regional Director for Subsistence, U.S. Fish and Wildlife Service, and notify/consult with local ADF&G managers, Regional Advisory Council members, and other affected Federal conservation unit managers concerning special actions being considered.

4. The Refuge Manager will issue timely decisions. Users, affected State and Federal managers, law enforcement personnel, and Regional Advisory Council representatives should be notified before the effective date/time of decisions. If an action is to supersede a State action not yet in effect, the decision will be communicated to affected users, State and Federal managers, and Regional Advisory Council representatives at least 6 hours before the State action would be effective. If a decision is to take no action, the requestor will be notified immediately.

5. There may be unusual circumstances under which the Refuge Manager will determine that he/she should not exercise the authority delegated, but instead request that the Federal Subsistence Board should handle the special action request. In a similar vein, the Federal Subsistence Board may determine that a special action request should not be handled by the delegated official but by the Board itself (i.e. rescind the delegated authority for that specific action only). These options should be exercised judiciously and may only be initiated where sufficient time allows. Such decisions should not be considered where immediate management actions are necessary for fisheries conservation purposes.

7. Reporting: The Refuge Manager must provide to the Federal Subsistence Board 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.

8. Support Services: Administrative support for local fisheries management activities of the Refuge Manager will be provided by the Office of Subsistence Management, U. S. Fish and Wildlife Service, Department of the Interior.

This delegation of authority will provide subsistence users in the region a local point of contact and will facilitate a local liaison with State managers and other user groups. Timely local management decisions optimize the opportunity for users to harvest fish when and where they are available, without jeopardizing spawning escapement goals for specific stocks.

Should you have any questions about this delegation of authority, please feel free to contact Mr. Thomas H. Boyd, Assistant Regional Director for Subsistence, U. S. Fish and Wildlife Service, Office of Subsistence Management at toll-free 1-800-478-1456 or (907) 786-3888.

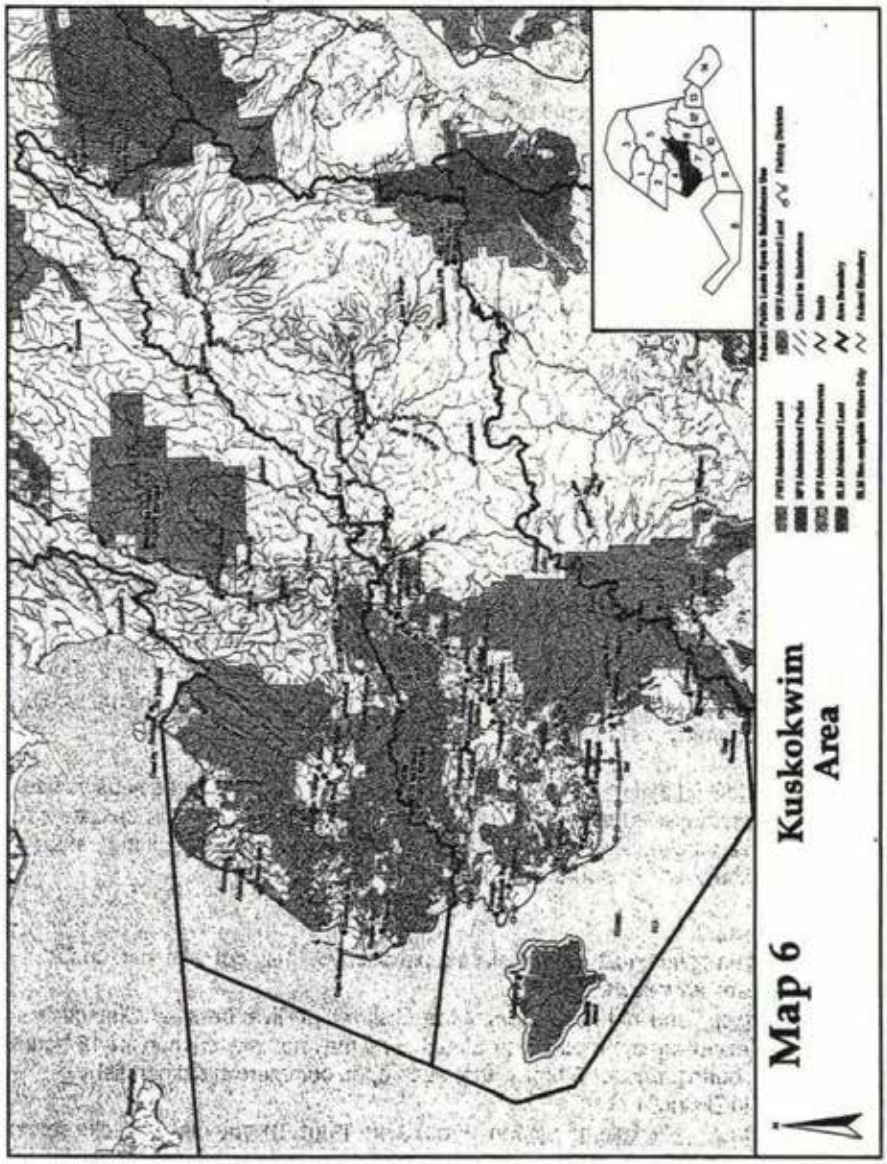
Sincerely,

Mitch Demientieff, Chair
Federal Subsistence Board

Attachment: Map of the Kuskokwim Area

cc: Members of the Federal Subsistence Board
Mr. Harry Wilde, Sr., Chair, Yukon-Kuskokwim Delta Subsistence Regional Advisory
Mr. Robert Nick, Member, Yukon-Kuskokwim Delta Subsistence Regional Advisory Council
Mr. James Charles, Member, Yukon-Kuskokwim Delta Subsistence Regional Advisory Council
Mr. Ronald Sam, Chair, Western Interior Subsistence Regional Advisory Council
Mr. Carl Morgan, Member, Western Interior Subsistence Regional Advisory Council
Mr. Ray Collins, Vice-Chair, Western Interior Subsistence Regional Advisory Council
Ms. Deb Liggett, Superintendent, Lake Clark/Katmai National Parks and Preserve
Mr. Steve Martin, Superintendent, Denali National Park and Preserve
Mr. Aaron Archibeque, Manager, Togiak National Wildlife Refuge
Mr. Greg Siekaniec, Manager, Alaska Maritime National Wildlife Refuge
Mr. Stanley Pruszenski, Assistant Regional Director - Law Enforcement, U.S. Fish and Wildlife Service
Mr. Frank Rue, Commissioner, Alaska Department of Fish and Game
Mr. Thomas H. Boyd, FWS Office of Subsistence Management

KUSKOKWIM AREA



Kuskokwim

FP17-09 Executive Summary	
General Description	Proposal FP17-09 requests removal of experimental title, expansion of harvest season, and numerous other changes to the regulations for the Kasilof River experimental community gillnet fishery. As written, this would be a replacement of all current regulatory language for this section. *Submitted by: The Ninilchik Traditional Council.*
Proposed Regulation	*§___.27(e)(10)(iv)**(I) The Ninilchik Traditional Council (NTC) may operate a community gillnet to provide for the subsistence uses of fish for the residents of Ninilchik. The community gillnet may be operated in the Federal public waters of the upper mainstream of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch from May 1st – November 15th . The gillnet fishery shall target the harvest of Sockeye, Chinook, Coho, and Pink Salmon. Other non-salmon fish harvested by the gillnet may be retained.*** ***(1) The Ninilchik Traditional Council shall provide notice to the Office of Subsistence Management no later than February 1st of its intent to operate a gillnet fishery. No later than April 1st, a subsistence gillnet permit will be issued by the Office of Subsistence Management in consultation with the Federal in-season fishery manager, the Kenai National Wildlife Refuge Manager, and the Ninilchik Traditional Council.*** ***(2) The permit conditions shall include:*** ***(i) Provisions that the gillnet may be not be over 10 fathoms in length, shall be constructed such that it is directed at harvesting Sockeye, Chinook, Coho, and Pink Salmon, may not obstruct more than half of the river width with stationary fishing gear, and may not be set within 200 feet of other subsistence stationary gear.*** ***(ii) Identification of the person or persons who will be responsible for the overall operation of the gillnet as well as a means for identifying persons authorized to supervise members of the community engaged in fishing the net.*** ***(iii) Provisions for recording daily catches, ensuring that***

	removal of the dorsal fins of harvested fish, and identifying the Ninilchik households to whom the catch was distributed. ***(iv) Provisions for NTC's reporting of all harvested fish within 72 hours of leaving the gillnet location.*** ***(v) Identification of a collaborative process for making determinations about potential closures or other actions affecting the gillnet fishery through which NTC and the SCRAC are fully informed and consulted prior to the implementation of any such action.*** ***(3) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River.***
OSM Conclusion	**Support with modification** to only change current fishery dates to match those in place for Chinook & Sockeye Salmon (Jun 16-Aug 15) AND name NTC as coordinator of the community gillnet fishery for the duration of the experimental period. Request 1: **Oppose** Request 2: **Support with modification** Request 3: **Oppose** Request 4: **Oppose** Request 5: **Support with modification** Request 6: **Oppose** Request 7: **Oppose** See pages **166 - 168** for modified regulatory language.
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	**Support with modification** to change the fishery dates to June 16 through August 15, and to require an annual report be submitted at the end of the fishing season. See pages **176 - 177** for modified regulatory language.
Interagency Staff Committee Comments	**See page 177.**
ADF&G Comments	**Support with modification** (see page **178).**
Written Public Comments	**6 Oppose**

STAFF ANALYSIS
FP17-09

ISSUES

Proposal FP17-09, submitted by the Ninilchik Traditional Council (NTC), requests that the Federal Subsistence Board (Board): 1) remove the "experimental" condition of the Kasilof River community gillnet salmon fishery; 2) increase the annual duration of the fishery; 3) make the Office of Subsistence Management (OSM) the issuer of the registration permit (rather than the Federal in-season fishery manager); 4) replace the operational plan requirement of the permit with specific permit conditions; 5) name NTC in regulation as the coordinator of the community gillnet fishery; 6) remove the post-season reporting requirement; and 7) establish a collaborative process through which NTC and the Southcentral Alaska Subsistence Regional Advisory Council (Council) are informed and consulted prior to any potential closures or other actions by the Federal in-season fishery manager. This would be a replacement of all current regulatory language for §___.27(e)(10)(I) if adopted as written by the proponent.

DISCUSSION

The proponent wants to convert the experimental community gillnet fishery into a permanent community gillnet fishery, and states that "the gillnet fishery is essential to provide for meaningful subsistence fishing opportunity." The proponent is also requesting specific permit conditions instead of requiring an operational plan. The proponent states that the current reporting requirements are "undue and excessively burdensome, that the operational plan process is vulnerable to abuse, that there are currently unreasonable sanctions against subsistence users, and that the current practices of State and Federal managers is to give preference to sport and commercial users before subsistence users." They also note that NTC represents the entire community of Ninilchik, and has put forth all of the effort to date to establish and run this fishery, and therefore should be designated in Federal regulation as the entity that coordinates the community gillnet fishery.

The proponent asserts that these changes would provide "more security that the residents of Ninilchik will actually have the opportunity for a gillnet fishery." The proponent seeks to provide regulatory clarity, to provide reasonable choices to subsistence users, and to provide for the retention of all fish harvested in the gillnet, as is consistent with customary and traditional values and practices. The proponent verified the requests during a phone conversation that took place on June 9, 2016, and informed OSM that the requests could be dealt with individually or as a whole.

The community gillnet fishery for the Kasilof River, unlike the community gillnet fishery on the Kenai River, was designated as a 5-year "experimental fishery" when these fisheries were adopted by the Board in 2015.

Existing Federal Regulation

Cook Inlet Area.

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

(I) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon through an experimental community gillnet fishery in the Federal public waters of the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch July 1-31. The experimental community gillnet fishery will expire 5 years after approval of the first operational plan.

(1)Only one community gillnet can be operated on the Kasilof River. The gillnet cannot be over 10 fathoms in length, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2)One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager. The experimental community gillnet will be subject to compliance with Kenai National Wildlife Refuge regulations and restrictions.

(i)Prior to the season, provide a written operational plan to the Federal fishery manager including a description of fishing method, mesh size requirements, fishing time and location, and how fish will be offered and distributed among households and residents of Ninilchik;

(ii)After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.

(3)The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i)Identifies a person who will be responsible for fishing the gillnet;

(ii)Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4)Fishing for Sockeye, Chinook, Coho and Pink salmon will be closed by Federal Special Action prior to the operational plan end dates if the annual total harvest

limits for any salmon species is reached or suspended.

(5)Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River. All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location.

(i)A portion of the total annual harvest limits for the Kasilof River will be allocated to the experimental community gillnet fishery.

(ii)The gillnet fishery will be closed once the allocation limit is reached.

(6)Salmon taken in the experimental community gillnet fishery will be included as part of the dip net/rod and reel fishery annual household limits for the Kasilof River.

(7)Residents of Ninilchik may retain other species incidentally caught in the Kasilof River . When the retention of rainbow/steelhead trout has been restricted under Federal subsistence regulations, the gillnet fishery will be closed.

(8)Before leaving the site, all harvested fish must be marked by removing their dorsal fin, and all retained fish must be recorded on the fishing permit.

(9)Failure to respond to reporting requirements or return the completed harvest permit by the due date listed on the permit may result in issuance of a violation notice and will make you ineligible to receive a subsistence permit during the following regulatory year.

Proposed Federal Regulation

Cook Inlet Area.

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

~~*(I) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon through an experimental community gillnet fishery in the Federal public waters of the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch July 1-31. The experimental community gillnet fishery will expire 5 years after approval of the first operational plan.*~~

~~*(1)Only one community gillnet can be operated on the Kasilof River. The gillnet cannot be over 10 fathoms in length, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may*~~

~~not be set within 200 feet of other subsistence stationary gear.~~

~~(2)One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager. The experimental community gillnet will be subject to compliance with Kenai National Wildlife Refuge regulations and restrictions.~~

> ~~(i)Prior to the season, provide a written operational plan to the Federal fishery manager including a description of fishing method, mesh size requirements, fishing time and location, and how fish will be offered and distributed among households and residents of Ninilchik;~~
>
> ~~(ii)After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.~~

~~(3)The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:~~

> ~~(i)Identifies a person who will be responsible for fishing the gillnet;~~
>
> ~~(ii)Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.~~

~~(4)Fishing for Sockeye, Chinook, Coho and Pink salmon will be closed by Federal Special Action prior to the operational plan end dates if the annual total harvest limits for any salmon species is reached or suspended.~~

~~(5)Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River. All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location.~~

> ~~(i)A portion of the total annual harvest limits for the Kasilof River will be allocated to the experimental community gillnet fishery.~~
>
> ~~(ii)The gillnet fishery will be closed once the allocation limit is reached.~~

~~(6)Salmon taken in the experimental community gillnet fishery will be included as part of the dip net/rod and reel fishery annual household limits for the Kasilof River.~~

~~(7)Residents of Ninilchik may retain other species incidentally caught in the Kasilof River. When the retention of rainbow/steelhead trout has been restricted under~~

~~*Federal subsistence regulations, the gillnet fishery will be closed.*~~

~~*(8)Before leaving the site, all harvested fish must be marked by removing their dorsal fin, and all retained fish must be recorded on the fishing permit.*~~

~~*(9)Failure to respond to reporting requirements or return the completed harvest permit by the due date listed on the permit may result in issuance of a violation notice and will make you ineligible to receive a subsistence permit during the following regulatory year.*~~

(I) The Ninilchik Traditional Council (NTC) may operate a community gillnet to provide for the subsistence uses of fish for the residents of Ninilchik. The community gillnet may be operated in the Federal public waters of the upper mainstream of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch from May 1st – November 15th . The gillnet fishery shall target the harvest of Sockeye, Chinook, Coho, and Pink Salmon. Other non-salmon fish harvested by the gillnet may be retained.

(1) The Ninilchik Traditional Council shall provide notice to the Office of Subsistence Management no later than February 1st of its intent to operate a gillnet fishery. No later than April 1st, a subsistence gillnet permit will be issued by the Office of Subsistence Management in consultation with the Federal in-season fishery manager, the Kenai National Wildlife Refuge Manager, and the Ninilchik Traditional Council.

(2) The permit conditions shall include:

(i) Provisions that the gillnet may be not be over 10 fathoms in length, shall be constructed such that it is directed at harvesting Sockeye, Chinook, Coho, and Pink Salmon, may not obstruct more than half of the river width with stationary fishing gear, and may not be set within 200 feet of other subsistence stationary gear.

(ii) Identification of the person or persons who will be responsible for the overall operation of the gillnet as well as a means for identifying persons authorized to supervise members of the community engaged in fishing the net.

(iii) Provisions for recording daily catches, ensuring that removal of the dorsal fins of harvested fish, and identifying the Ninilchik households to whom the catch was distributed.

(iv) Provisions for NTC's reporting of all harvested fish within 72 hours of leaving the gillnet location.

(v) Identification of a collaborative process for making determinations about potential closures or other actions affecting the gillnet fishery

through which NTC and the SCRAC are fully informed and consulted prior to the implementation of any such action.

(3) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River.

Existing State Regulation

The Kenai Peninsula is a designated nonsubsistence use area by the State. As such, the State's subsistence priority does not apply on the Kenai Peninsula and the Alaska Board of Fisheries may not authorize subsistence fisheries in nonsubsistence areas. 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. Management of Kasilof River fisheries is conducted through several fisheries management plans, as outlined in the Regulatory History section below.

Extent of Federal Public Waters

Federal public waters are defined and described under 36 CFR 242.3 and 50 CFR100.3. For the Kasilof River, Federal public waters under consideration include all waters of the Kasilof River within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge (**Map 1**). This includes approximately the upper seven miles of the Kasilof River from the outlet of Tustumena Lake downstream to Silver Salmon Rapids. This proposal applies to the area within those waters from a Federal regulatory marker on the Kasilof River below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch.

Customary and Traditional Use Determinations

Residents of the community of Ninilchik have a customary and traditional use determination for all fish in the Kasilof River drainage.

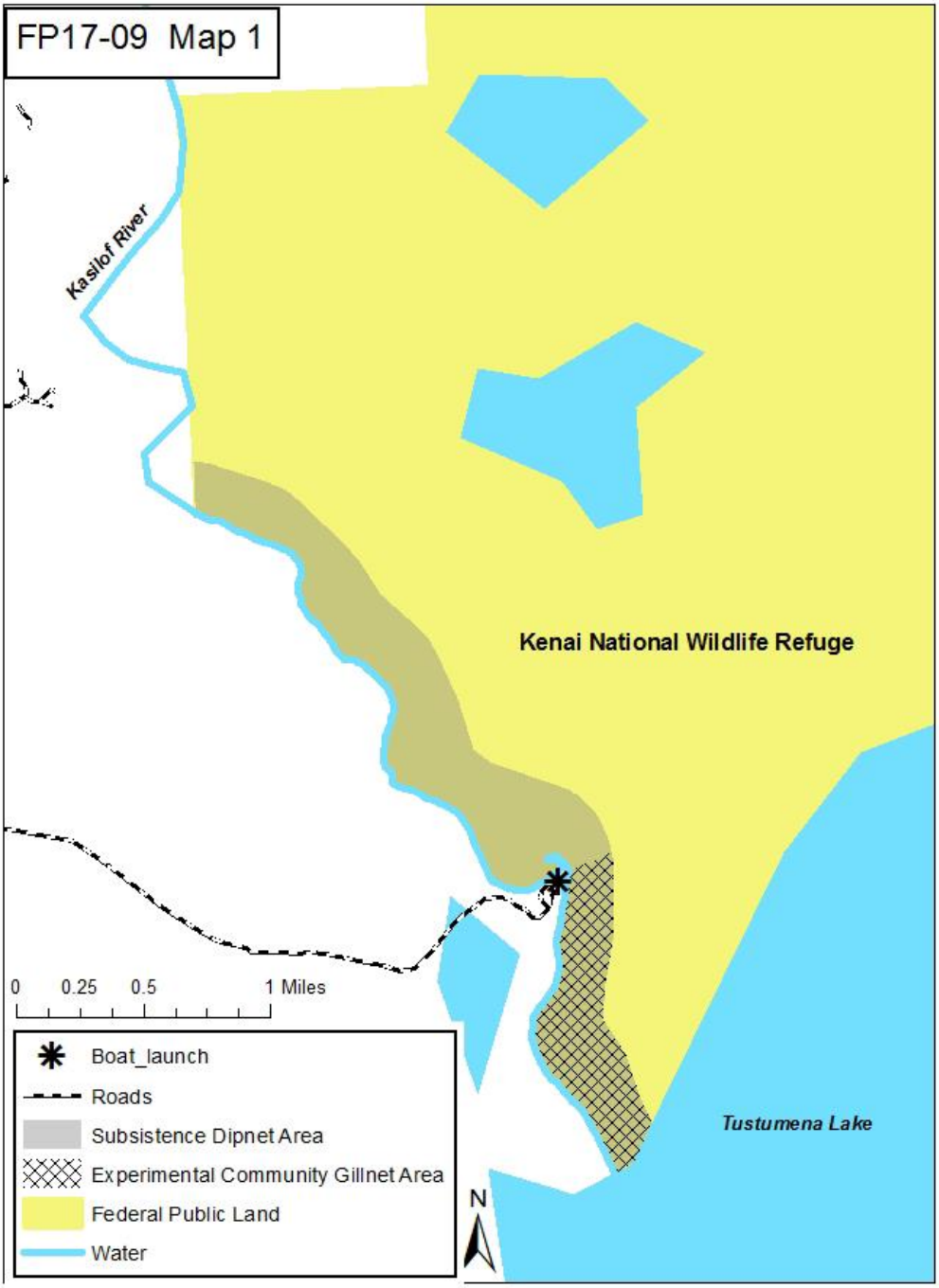
Regulatory History

Pre- and Early Statehood Fisheries

Prior to 1952, freshwater streams in the Kenai Peninsula were open to subsistence fishing, but poorly managed commercial fisheries, a growing local and territory-wide population, and increased user pressure decimated salmon runs. 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).

Contemporary State Fisheries

Overall, the State of Alaska manages commercial and sport salmon fisheries statewide based on the principles and criteria listed in the State's Policy for the management of sustainable salmon fisheries, 5AAC 39.222 (**Appendix A**). A State regulatory management plan for Upper Cook Inlet salmon (5 AAC 21.363) provides the Alaska Board of Fisheries guiding principles and provisions for adopting management


FP17-09 Map 1
Kasilof River
Kenai National Wildlife Refuge
Tustumena Lake
0 0.25 0.5 1 Miles
Boat_launch
Roads
Subsistence Dipnet Area
Experimental Community Gillnet Area
Federal Public Land
Water
N

plans for specific stocks. 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.

Commercial and sport fisheries are complex and intensively managed by the Alaska Department of Fish and Game (ADF&G). There are three main management plans that apply to Kenai and Kasilof river salmon stocks: Upper Cook Inlet Management Plan (5 AAC 21.363), Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 57.160), and Kasilof River Salmon Management Plan (5 AAC 21.365). These plans provide goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and instructions for allocation between competing fisheries.

The ADF&G also has a regulatory management plan for Upper Cook Inlet personal use salmon fisheries (5 AAC 77.540). This plan established four personal use fisheries in Cook Inlet, including the Kenai River dip net fishery. Unlike subsistence fisheries, personal use fisheries do not have a priority over other existing uses. Personal use fisheries are open to all residents of Alaska, require a household permit and sport fishing license, and occur in marine and intertidal waters outside of Federal public lands. These fisheries target Sockeye Salmon, the species of greatest abundance and for which the best stock assessment information is available. Annual harvest limits are 25 salmon for the head of each household and 10 salmon for each additional household member. The limit is combined for all four fisheries. Incidentally caught Coho, Pink, and Chum Salmon may be retained as part of the annual limit. Each household is limited to one Chinook Salmon in the Kenai River dip net fishery.

Finally, the State administers up to twelve educational fisheries each year in the Cook Inlet area under the provisions of 5 AAC 93.200 – 93.235 (Nelson et al. 1999, Fall et al. 2004). Around half of these educational fisheries occur in marine waters at the mouths of Kenai Peninsula rivers. The purpose of educational fisheries is to allow groups to practice traditional, contemporary, or experimental methods for locating, harvesting, or processing fishery resources. Educational fisheries, unlike subsistence fisheries, do not have priority over other fisheries. Therefore, during times of resource shortages, educational fisheries may be restricted before or at the same time as commercial, sport, and personal use fisheries.

Educational fishery permits have been issued to five local groups in the Kenai/Kasilof/Ninilchik area: the Kasilof Regional Historical Association, the Kenaitze Indian Tribe, Ninilchik Emergency Services, Ninilchik Native Decedents, and Ninilchik Traditional Council (Nelson et al. 1999, Begich et al. 2013; Kerkvliet et al. 2013; Shields and Dupuis 2016). The Kenaitze Indian Tribe has participated in an educational fishery since 1989, and has established educational fisheries in the marine environment adjacent to the Kasilof, Kenai, and Swanson rivers, as well as limited fishing within the freshwaters of the Kenai and Swanson rivers. The Ninilchik Traditional Council has participated in an educational fishery since 1993 for the Ninilchik area fisheries and since 2007 for the Kasilof area fisheries. They are permitted to use two set gillnets in the marine waters near the mouth of the Ninilchik River (only 1 prior to June 22), one set gillnet in the marine waters near the mouth of the Kasilof River, and other traditional means in freshwaters of the Ninilchik River below the Sterling Highway bridge. In 1998, a group of NTC members formed a

new organization called Ninilchik Native Decedents and the allocation was divided evenly between the two groups. They are permitted to use one set gillnet in the marine waters near the mouth of the Ninilchik River and other traditional means in freshwaters of the Ninilchik River below the Sterling Highway bridge. Ninilchik Emergency Services has participated in an educational fishery since 2003 in the Ninilchik area. They are permitted to use one set gillnet in the marine waters near the mouth of the Ninilchik River. The Kasilof Regional Historical Association has participated in an educational fishery since 2008, and is permitted a single set gillnet in the marine waters near the mouth of the Kasilof River. Permits for each group dictate total harvest, as well as specific limits for Chinook and Coho Salmon (**Table 1**).

Table 1. Harvest quota for each group, by species, and by location for Kasilof and Ninilchik River educational fisheries. Total quota is the number of all salmon species allowed for harvest, while Chinook and Coho Salmon quotas are specific limits for those species (Begich 2016a, pers. comm.; Kerkvliet 2016, pers. comm.).

Group	Total quota	Location(s)	Chinook quota	Coho quota
Ninilchik Traditional Council				
	2,800	Marine waters adjacent to the Kasilof River	100	300
		Marine waters near the Ninilchik River and freshwaters of the Ninilchik River below the Sterling Highway Bridge	100	200
Ninilchik Native Descendants				
	2,800	Marine waters adjacent to the Ninilchik River	50	150
Ninilchik Emergency Services				
	250	Marine waters adjacent to the Ninilchik River	25	50
Kenaitze Indian Tribe				
	10,000	Marine waters adjacent to the Kasilof River	-	500
		Marine waters adjacent to the Swanson River mouth and freshwaters of the Swanson River adjacent to the boat landing	25	200
		Marine waters adjacent to the Kenai River mouth and freshwaters of the Kenai River from one-quarter mile upstream of the Warren Ames Bridge downstream to the mouth	50	1,000
Kasilof Regional Historical Assn.				
	300	Marine waters adjacent to the Kasilof River	10	50

Federal Subsistence Fisheries in the Cook Inlet Area

In 2002, Federal subsistence regulations for harvest in the Cook Inlet Area were established for salmon, trout, and Dolly Varden. A Federal subsistence permit was required and seasons, harvest and possession limits, and methods and means for take were the same as those in Alaska sport fishing regulations. This fishery was established as an interim measure to provide some subsistence opportunity in the Cook Inlet Area for Federally qualified rural residents. Initially, there were no customary and traditional use determinations for salmon, trout and Dolly Varden in Cook Inlet; so all rural residents of Alaska could harvest under Federal regulations.

In January 2006, the Federal Subsistence Board made customary and traditional use determinations for Hope and Cooper Landing residents for all fish in the Kenai River Area, and for Ninilchik residents for all

fish within the Kasilof River drainage within the Kenai National Wildlife Refuge. In November 2010, the Board made a customary and traditional use determination for Ninilchik residents for all fish in the Kenai River Area within the Kenai National Wildlife Refuge and the Chugach National Forest.

For the 2007 regulatory cycle, two additional steps were included in the usual analysis and review process for regulatory proposals; 1) the formation of a stakeholder subcommittee of the Council, which met twice in Soldotna in February 2007, to review the analyses and suggest changes, and 2) a review by the NTC, the proponent of some of the proposals, to assess, and provide feedback on, the changes suggested by the subcommittee, and to suggest other changes. Both of these steps took place prior to the Council's March 2007 meeting. Several suggested changes which resulted from these extra steps, were incorporated into the analyses as modifications to the proposed regulations and presented to the Council and, ultimately, the Board (OSM 2007).

At the time, the Board typically held public meetings twice a year to make decisions on proposals to change Federal subsistence regulations throughout the State; once in the Spring (April or May) for wildlife regulations and once in the Winter (December or January) for fisheries proposals. In May 2007, the Board held a third public meeting solely to hear public testimony on, deliberate and make decisions for the Kenai Peninsula fisheries proposals of the 2007 regulatory cycle. The meeting lasted three days (FSB 2007a).

During its May 2007 meeting, the Board adopted proposals that established dip net/rod and reel salmon fisheries on the Kasilof and Kenai Rivers, increased previously established harvest, possession, and annual limits for salmon and selected resident species for existing Federal subsistence rod and reel fisheries on the Kasilof and Kenai River drainages, and allowed use of up to two single or treble hooks and bait for rod and reel fishing during specified dates for both systems (proposal FP07-27). Sockeye Salmon annual harvest limits were set at 4,000 fish, with an annual household limit of 25 for each permit holder, and an additional 5 per each household member. Chinook, Coho, and Pink Salmon annual harvest limits were each set at 500 fish, with an annual household limit of 10 for each permit holder, and an additional 2 per each household member. Also during the May 2007 meeting, the Board adopted Proposal FP07-27D to establish a winter season subsistence fishery at Tustumena Lake with jigging through the ice and gillnets fished under the ice for Lake Trout, Rainbow Trout and Dolly Varden/Arctic Char (proposal FP07-30).

Additionally, during the 2007 regulatory cycle, there were several proposals that included requests for the use of gillnets in the Kenai River drainage. These included Proposals FP07-27B and C (by NTC) and FP07-29 (by Mr. Robert Gibson of Cooper Landing). FP07-27B and C requested a community set gillnet fishery for Chinook, Sockeye, and Pink Salmon in the Kasilof and Kenai Rivers and a community set gillnet fishery for Coho Salmon in the Kenai River. FP07-29 requested that gillnets with different mesh sizes be used to harvest Sockeye Salmon, Coho Salmon, Pink Salmon, Rainbow Trout, Dolly Varden, Lake Trout, and whitefish species in several lakes in the Kenai River drainage. The recommendation of the Council was to move forward with only the dip net and rod and reel salmon fisheries described above. Justification for this recommendation was that a dip net fishery at Moose Range Meadows provides additional subsistence opportunity and that limiting this fishery to dip nets from boats addresses habitat and private property concerns in this area. The Council also stated that allowing incidental harvest of Rainbow Trout and Dolly Varden/Arctic Char less than 18 inches in dip net fisheries below Skilak Lake is consistent with

conservation practices and provides a reasonable alternative to expanded harvest opportunity in the rod and reel fishery. Lastly, the Council stated that providing up to two baited hooks in the rod and reel fishery below Skilak Lake from January 1 to August 31 provides an additional opportunity for Chinook and Coho Salmon, and is consistent with conservation practices for these species.

During the 2008 cycle, the Council submitted Proposal FP08-09 to establish a temporary community fish wheel on both the Kenai and Kasilof Rivers for residents of Ninilchik, Hope, and Cooper Landing. The Council contended that the fish wheels would provide a more effective means for Federally qualified subsistence users to harvest salmon. The Council requested the establishment of fish wheels as a gear type be temporary to evaluate the feasibility of operating this type of gear. The Board, at its December 2007 meeting, adopted the proposal, with modification, to allow fish wheels to be classified as a gear type, but only in the Kasilof River. The Board felt that there were too many logistical issues to be dealt with on the Kenai River, especially with three communities having the possibility of running a single fish wheel. The Board specified that only one fish wheel with a live box would be allowed in the upper mainstem of the Kasilof River. A permit would be required to use the fish wheel and that an operational plan must be submitted to and approved by the Federal in-season manager, before the permit would be awarded. Individuals operating the fish wheel would need to have a Federal subsistence fishing permit and all harvest limits on the permit would apply to the fish wheel. Salmon harvested by the fish wheel were included as part of each household's annual limit and all fish harvested were to be reported to the in-season manager with 72 hours of leaving the fishing location (FSB 2007b). The Board, at its January 2013 meeting, supported FP13-15 to remove the expiration date for the community fish wheel salmon fishery on the Kasilof River allowing continued operation of the fish wheel (FSB 2013).

For the 2015 regulatory cycle, NTC submitted Proposal FP15-11 to establish a community gillnet fishery on the Kasilof River. They contended that previous efforts to establish a meaningful subsistence fishery had been unsuccessful, and that good faith efforts had been made to attempt to use the fish wheel. They requested a single community net to avoid the proliferation of nets and decrease conservation concerns, and suggested an operational plan similar to what had been done with the fish wheel. The Council unanimously supported the proposal and stated that the U.S. Fish and Wildlife Service (USFWS) conservation concerns could be addressed in the operational plan.

Although the USFWS had numerous concerns with implementing this fishery with a non-selective gear type that has the potential to harvest large numbers of fish in relatively short periods of time, they supported initiating the experimental fishery based on their assessment that the Service's three primary concerns associated with gillnet use in the Kasilof River could be addressed (Anderson 2016, pers. comm.). These concerns are: 1) fishing a gillnet in a known spawning area for Steelhead); 2) potential for take of Steelhead and late-run Chinook Salmon, which are in low abundance in the watershed and cannot sustain much harvest; and 3) establishing a fishery that conflicts with existing Federal subsistence regulations, which prohibit the harvest of Steelhead after August 15. USFWS staff recommendations for modifying Proposal FP15-11 to address these primary concerns included establishing time and area restrictions for the fishery to avoid fishing in important salmon spawning areas and the harvest of spawning fish and restricting gillnet use to a period of time when Steelhead are not present in the system. USFWS supported the modified fishery as all fish captured in the experimental gillnet fishery, regardless of species or size, would be legal to

harvest under Federal subsistence regulations. The Board adopted FP15-11 at its January 2015 meeting with modification as developed and offered by the USFWS, to provide for a harvest opportunity for the residents of Ninilchik. These modifications included (but were not limited to) an expiration date five years from the approval of the operational plan and a season of Jul. 1 to Jul. 31. This timing window provided conservation for both Steelhead kelts (fish that have spawned and are returning to the marine environment), which leave the river by late June, and late-run Chinook Salmon, which start entering the system towards the end of July. The first operational plan was approved on July 13, 2015 and fishing commenced that same day.

The 2016 operational plan was approved and signed by all parties on June 10, 2016, with no substantial changes from the 2015 plan. The fishery was operational between July 1 and 31, 2016.

Current Events

For 2016, anticipated poor early-run Chinook Salmon returns to the Kasilof River resulted in restrictions to the Chinook Salmon sport fishery by ADF&G. By Emergency Order, sport fishing for early-run Chinook Salmon in the Kasilof River, between May 1 and June 17, 2016, was restricted to only allow harvest of naturally produced Chinook Salmon on Tuesdays and Saturdays, with retention of hatchery produced Chinook Salmon on all days of the week, and a bag limit of two fish (Begich 2016b). Any naturally produced Chinook Salmon caught incidentally while fishing on non-retention days could not be removed from the water and had to be released immediately. Another special order was issued to lift these restrictions between June 18 and June 30, 2016, due to a stronger return of hatchery-run Chinook Salmon in the Kasilof River (Begich 2016c).

Kasilof River early-run Chinook Salmon had been in a period of low productivity between 2009 and 2015, but the ADF&G's 2016 in-season information, including data from inriver assessment programs as well as Chinook Salmon catch data from the department's guide logbook program, indicated early-run Chinook Salmon abundance in 2016 was much improved over recent years, and may be progressing from low to more average production levels. These early-run fish, however, return primarily to Crooked Creek in the lower Kasilof River drainage and were thus not available for harvest by Federal subsistence users.

The 2016 Kasilof River experimental community gillnet fishery was conducted between July 1 and July 27. A draft operational plan for the 2017 community gillnet fishery was submitted by NTC on September 12, 2016.

Biological Background and Harvest History

<u>Sockeye Salmon</u>

Sockeye Salmon are the most abundant salmon species in the Kasilof River drainage, and the State's Kasilof River Salmon Management Plan (5 AAC 21.365) establishes the current escapement objectives (160,000-340,000 fish) and provides guidelines for the management of fisheries harvesting this run. Kasilof River Sockeye Salmon are harvested in large numbers in mixed-stock commercial salmon fisheries in Cook Inlet (Shields and Dupuis 2016). The Upper Cook Inlet commercial Sockeye Salmon harvest has

ranged from 2,045,794 to 5,277,995 Sockeye Salmon during 2005–2014, with a 10-year average harvest of 3,144,107 fish. The sport fishery harvest in the mainstem Kasilof River has ranged from 3,693 to 7,834 Sockeye Salmon during 2004–2013, with a 10-year average harvest of 6,203 fish. Sport fishing for Sockeye Salmon is not permitted within Tustumena Lake or its tributaries. The personal use gillnet and dip net fisheries harvests of Kasilof River salmon have ranged from 58,236 to 116,567 fish during 2006–2015, with a 10-year average harvest of 90,633 fish. Educational fisheries harvests ranged from 12 to 300 fish during the years 2002-2013, with an average harvest of 82 (Begich et al. 2013). In 2015, the Kasilof River escapement was estimated at 470,667 Sockeye Salmon, which exceeded the optimal escapement goal range of 160,000 – 340,000 fish.

Chinook Salmon

The Kasilof River supports both early and late runs of Chinook Salmon. Early-run Chinook Salmon, including the hatchery-produced component, spawn in Crooked Creek during late May and June. Only the headwaters of Crooked Creek lie within the Kenai National Wildlife Refuge, so early-run Chinook Salmon are not generally available for harvest in Federal public waters. Late-run Chinook Salmon spawn in the upper mainstem Kasilof River, including the outlet of Tustumena Lake, during August and September (Reimer and Fleishman 2012), making them available for harvest by Federally qualified subsistence users.

Mark-recapture experiments were conducted during the 2005-2008 seasons for late-run Kasilof River Chinook Salmon. Probability distributions for estimated abundance indicate the 2006-2008 in-river returns were most likely near 10,000 wild, age 2+ fish (Reimer and Fleishman 2012). The 2005 estimate is considerably less certain although very likely larger than 2006, 2007 or 2008. The largest age class was 4 ocean fish in 2006 and 2007 and 3 ocean fish in 2008 (Reimer and Fleishman 2012).

The spawning distribution of late-run Kasilof River Chinook Salmon was first studied with radio tags in 1987 (Faurot and Jones 1990). Significant spawning areas included Crooked Creek and three areas of the Kasilof River mainstem: near the mouth of Crooked Creek at river mile (RM) 6.9, upstream of the Sterling Highway bridge between RM 9 and 12, and within the Kenai National Wildlife Refuge area between RM15 and 18). Results from radio tags deployed in 2005-2008 identified the same general spawning areas that were identified in the1987 study. The 2005-2008 data suggests that the upper river area within the Kenai National Wildlife Refuge is utilized by spawning fish that are present starting in late August (Reimer and Fleishman 2012). Specific spawning locations identified by both surveys in the mainstem Kasilof River extended to just downstream of the Tustumena Lake boat ramp.

The early-run supports the larger recreational fishery. The State's Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 56-070) established escapement objectives and guidelines for the management of fisheries harvesting this run. No management plan exists for Kasilof River late-run Chinook Salmon. The late-run Kasilof River Chinook Salmon comprise a wild stock and abundance and run timing of the population is unknown (Reimer and Fleishman 2012). Sport fishing for Chinook Salmon occurs on the mainstem Kasilof River, is focused on the enhanced early run of Crooked Creek Chinook Salmon, which can be identified by an adipose fin clip, and is not allowed above the Sterling Highway Bridge after 30 June. Sport fish harvest of wild Chinook Salmon (with an adipose

fin), above the bridge prior to July 1, is restricted to Tuesdays, Thursday and Saturdays by regulation.

The 2012 Chinook Salmon sport harvest for the Kasilof River was 927 fish. The total (early- and late-run) sport fishery harvest has ranged between 927 and 4,234 fish during the years 2003–2012, with an average harvest of 3,224 fish (Begich et al. 2013). Estimates of the number of late-run Chinook Salmon within harvests from 2003–2012 range from 55 to 2,164, with an average harvest of 1,116.

There are also personal use and educational fisheries that harvest Kasilof River Chinook Salmon. The 2015 personal use fishery harvest in the Kasilof River was 61 fish (Shields and Dupuis 2016). Harvests from the personal use gillnet and dip net fishery, which is directed at Kasilof River Sockeye Salmon, have ranged from 50 to 378 fish during the years 2006–2015, with an average harvest of 173 fish. Educational fisheries harvests have ranged between 2 to 16 fish during the years 2002–2013, with an average harvest over that span of 6 fish (Begich et al. 2013).

Lastly, Chinook Salmon are harvested during mixed-stock commercial salmon fisheries in the upper Cook Inlet. The 2015 upper Cook Inlet harvest of 10,798 fish was the seventeenth smallest since 1966 (Shields and Dupuis 2016) and was 9% less than the previous 10-year (2005-2014) average annual harvest of 11,914 fish. The moderate decline in Chinook Salmon harvest during the 2015 season was likely caused by a decreased abundance of Chinook Salmon in the Upper Cook Inlet area and subsequent restrictions placed on the commercial fisheries for Chinook Salmon conservation.

Coho Salmon

Coho Salmon are likely the second most abundant salmon species in the Kasilof River drainage. Radio-telemetry experiments during the 2007-2009 seasons found the upper mainstem to be an important spawning area (Gates et al. 2010). Of those tagged fish that were assigned to a spawning location, the majority were found to be spawning in the mainstem Kasilof River above RM 15 and downstream of the Tustumena Lake boat ramp, while others spawned in Tustumena Lake tributaries, the mainstem Kasilof River below RM 15, or in lower river tributaries. Although Coho Salmon return to the drainage as early as late-July, radio-tagging occurred between mid-August and mid-October when the bulk of the run was in the river. Nearly all tributary spawners were tagged by the second week of September, while the majority of mainstem spawners were tagged after mid-September. Several of the comparatively small lake tributary populations appear to comprise the majority of the early portion of the run, which would make them susceptible to overexploitation in fisheries that target the early component of the run (Bromaghin et al. 2010). However, these results are based on observations from a single year.

Coho Salmon are harvested during mixed-stock commercial salmon fisheries in Cook Inlet. Total annual harvest within these fisheries is usually hundreds of thousands of Coho Salmon. The contribution of Kasilof River Coho Salmon to these harvests is not known. The sport fishery harvest in the mainstem Kasilof River ranged from 1,740 to 4,217 fish during the years 2003–2013, with an average harvest of 3,158 fish (Begich et al. 2013). The sport fishery harvest in Tustumena Lake is much less and has ranged from 0 to 338 fish during this same time period, with an average harvest of 96 fish. Kasilof area educational fisheries harvests have ranged from 0 to 45 fish during 2002-2013, with an average harvest of 20 fish.

Steelhead

The Kasilof River supports a small fall-run population of Steelhead. These fish enter freshwater in the fall to overwinter, spawn in the spring, and emigrate back to the marine environment following spawning (Gates 2009). The majority of overwintering, which occurs between December and March, takes place in the mainstem Kasilof at the outlet to Tustumena Lake, in the lake, and in the mainstem from Crooked Creek to the outlet, in that order (Gates and Boersma 2010). Spawning locations include the mainstem Kasilof River, Kasilof River tributaries, and tributaries to Tustumena Lake. Spawn timing is between late April and late June, and takes place in the mainstem Kasilof River, tributaries of the Kasilof River, and tributaries to Tustumena Lake. Post-spawn kelt emigration occurs between early May and late June. The 2008 and 2009 tagging studies conducted by Gates and Boersma (2010) indicate that while these fish are present throughout the mainstem from RM 5 of the Kasilof River all the way to Tustumena Lake in April, they have generally departed the upper river area by May, and are concentrated downstream of RM 16 in June.

The Kasilof River Steelhead run is primarily targeted by sport fishermen. This run was enhanced by ADF&G to provide additional angling opportunity between the early 1980's and 1996 (Begich et al. 2013), and the 1993 harvest exceeded 2,000 fish (Mills 1994). Present catch and harvest is supported by natural populations. Contemporary sport fishing harvest estimates, as provided from the Alaska Sport Fishing Survey Database (2016), range between 0 and 111 for the years 2005-2014, with an average harvest of 26 fish per year. Federal subsistence harvest of Steelhead is prohibited after August 15.

Federal Subsistence Harvest

Rural residents of Ninilchik have been allowed to harvest fish in the Kasilof River drainage in Federal public waters under Federal subsistence regulations since 2007, and only residents of Ninilchik may harvest salmon from this drainage under Federal subsistence fishing regulations. Residents of Ninilchik have an annual Sockeye Salmon harvest limit of 4,000 fish, with an annual household limit of 25 for each permit holder and an additional 5 per each additional household member. Chinook, Coho, and Pink Salmon annual harvest limits are each set at 500 fish, with an annual household limit of 10 of each species for each permit holder and an additional 2 of each species for each additional household member. Up to 200 Rainbow/Steelhead Trout may also be harvested through August 15. These harvest limits cover fish harvested from the Kasilof River drainage, and the fishery will be closed by Federal special action if an annual total harvest limit for a species is reached. From the inception of the Kasilof River Federal Subsistence Fisheries over 99% of the total harvest has been composed of Sockeye Salmon. Two Chinook Salmon were harvested by dip net in 2008, and another two were harvested in 2015 by rod and reel (USFWS 2008, 2015). For the period of 2007 through 2015 the total harvest of Sockeye Salmon has ranged from 1 to 288 fish (**Table 2**).

Table 2. Total harvests of Sockeye Salmon by the community of Ninilchik through the Kasilof River Federal subsistence fisheries (USFWS 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015).

	Year									
Subsistence Fishery	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Dip Net Fisheries	30	108	7	40	1	24	107	45	65	*
Rod/Reel/Fishwheel Fisheries	0	0	0	0	0	0	0	0	0	*
Experimental Gillnet Fishery	-	-	-	-	-	-	-	-	223	94
Total	30	108	7	40	1	24	107	45	288	*

*Available data for the season as of 11/8/2016

In 2015, the first year of the experimental community gillnet fishery took place in Federal public waters of the Kasilof River by residents of the community of Ninilchik (Ninilchik Traditional Council 2015). The fishery was initiated on July 13 and concluded on July 31. Designated fishers pulled the net at 30 minute (or less) intervals to remove fish and clean debris. Captured fish were placed into a plastic mesh recovery box for identification and data recording. Harvested fish were marked, while non-target fish were released alive when possible. Fish were distributed on a first-come first-served system that allowed Federally qualified users to sign up as an interested subsistence permit holder, at which time they informed the fisher of the number of fish they wanted to receive and provided their Federal permit. When an allocation was filled, the next person on the list was contacted to see if they wanted to receive fish. The net was fished for 15 of the 19 days during the permitted period, for a total of 62.4 hours (4.16 hours average per day fishing). A total of 15 Federally qualified users signed up and received 223 Sockeye Salmon out of the total household limit of 465 permitted fish that they were allowed (based on allocation of 25 per household plus an additional 5 fish per each additional household member). One incidentally caught Lake Trout was retained. Additionally, 22 Sockeye Salmon, 15 Pink Salmon, and 1 Dolly Varden were released. There were no incidentally captured Steelhead or Chinook Salmon during the 2015 experimental community gillnet fishery.

A second year of the experimental community gillnet fishery took place in 2016. The fishery conducted between July 1 and July 27. Preliminary results of the fishery show the Ninilchik community had caught 96 Sockeye Salmon, 1 Chinook Salmon, and 2 Lake Trout, while harvesting 94 Sockeye Salmon. No Rainbow Trout or Steelhead were caught, harvested, or released during the 2016 experimental community gillnet fishery season.

Cultural Knowledge and Traditional Practices

The Ninilchik community is comprised of two census-designated places (CDPs): Ninilchik and Happy Valley. ADF&G subsistence use studies conducted in 2002–03 on Ninilchik included Ninilchik and Happy Valley CDPs (Fall et al. 2004). Thus, when reference is made to Ninilchik in this analysis, it includes people living in the Ninilchik CDP as well as the Happy Valley CDP. In the 2010 U.S. Census, Ninilchik CDP had 883 year-round, permanent residents and Happy Valley had 593 year-round permanent residents (U.S. Census 2010); thus the total population for the two CDPs from the last census is 1,476.

The Ninilchik tribal government (which is the NTC) is the only local government in the Ninilchik area. There is no local municipal government, although Ninilchik is part of the Kenai Peninsula Borough. The community of Ninilchik is similar to road-connected rural portions of the Copper River Basin where the local governments of communities are tribal, not municipal (Stratton and Georgette 1984).

The community of Ninilchik is within the traditional territory of the Dena'ina Athabaskans, which dates back to around at least 1000 A.D. The area extends from Kachemak Bay on the Kenai Peninsula, west across Cook Inlet to 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. With the construction of roads and local oil development in the 1950's, the population of the Kenai Peninsula increased substantially through in-migration of people born outside Alaska.

From the early 1900's, the annual subsistence pattern of the *Dena'ina* included commercial fishing in the spring and summer at the mouth of the Kenai River before moving up-river in the fall to harvest Coho Salmon and freshwater fish, hunt moose, and trap furbearers. This cycle continued until the 1940s when the creation of the Kenai National Moose Range disrupted traditional harvest patterns. Despite new Federal refuge enforcement efforts, many *Dena'ina* continued to access their Stepanka camps; long used settlements up the Kenai River near the outlet of Skilak Lake (Fall et al. 2004:16–20).

Subsistence fishing in the freshwaters of the Kenai Peninsula was prohibited from 1952 until the Federal Subsistence Board created a subsistence fishery in 2002 which mirrored the State sport fishing regulations. Since statehood, legal availability of fishery resources in Federal public waters has been defined by State sport fishing regulations, and these regulations do not provide for harvest of all species or harvest by traditional methods and means. In this area, preferred traditional methods and means include nets, an efficient method and means of harvest for subsistence users who traditionally harvest as much fish as they can process at once. Rod and reel is considered a traditional subsistence gear type under Federal subsistence regulations and under State regulations in some parts of the state. In some cases under State regulations, rod and reel has been recognized as traditional gear in places where fish fences or traps are no longer a legal means to harvest fish and rod and reel is the only legal alternative (Williams et al. 2005:31–32). Georgette (1983:185) noted that some Ninilchik residents said they have never learned to fish successfully with a rod and reel and that fishing with a rod and reel consumes too much of their time.

In 1952, gillnets were made illegal in many freshwaters, and the Kenai Peninsula *Dena'ina* ceased using gillnets during their fall occupation of their upriver harvest sites. The Stepanka fishery, that had been a traditional, long-standing source of salmon for the Dena'ina (Kenaitze) Indians, was closed. As a result of this closure, snagging became the primary harvest method until it was made illegal in 1973. Local residents turned to sport fishing without snagging, and continued to fish the beaches of Cook Inlet with

gillnets in the State subsistence fishery. In the 1970's, sport fishing had grown and the Kenai had become a favorite spot for sport fishing. The Kenai Peninsula is unique in that rural communities are interspersed among much larger nonrural communities. By the early 1980's, the Alaska Board of Fisheries added more restrictions on subsistence and personal use fishing along the Cook Inlet beaches, closing beaches to subsistence gillnetting. By the mid-1990s, only two personal use fisheries remained at the mouth of the Kenai and Kasilof rivers (Fall et al. 2004:22–23; 30).

Regulations relating to areas, seasons, and methods have changed consistently over the past 54 years and become more restrictive. The changing regulations have affected access by Ninilchik residents to fish resources over time and have encouraged multiple approaches to obtaining subsistence resources. For example, in the case of salmon, as regulations and conditions have changed, residents have adapted their traditional practices to continue to obtain salmon—trade it, buy it, or harvest it in new ways under various regulatory regimes (Georgette 1983:186–187). In 1993, ten years after the above cited-report was written, a State judge ordered the development of educational fisheries for the NTC, the Knik Tribal Council, the Native Village of Eklutna and the Kenaitze Tribe (Loshbaugh 1993:1, 14). These fisheries were established as the result of lawsuit filed by the Kenaitze Tribe. The educational fishery provided another means for residents of Ninilchik to harvest salmon using gillnets. The educational permits, however, were a compromise: "Villagers—who have traditionally focused on early-run king salmon will be catching mostly reds under the proposed permit" (Loshbaugh 1993:14).

Additional Issues for Board Consideration

As currently written, Federal subsistence regulations for the Kenai and Kasilof rivers are confusing and at times contradictory. The Board may want to consider directing OSM to submit a regulatory proposal to review and revise the Cook Inlet subsistence fisheries regulatory section (§___.27(e)(10)(iv)) during the next fisheries regulatory cycle to clarify and simplify regulatory language in an effort to resolve unnecessary complexities and inconsistencies between the regulations for both rivers.

Additionally, it may be worth the Board's consideration to remove the annual total harvest limits for the Kenai dip net/rod and reel fishery. These limits have been the focus of much discussion lately, including in this proposal and the request for reconsideration submitted for the Kenai River community gillnet fishery. The limits were initially associated with a proposal by the NTC in 2007 for a set gillnet fishery in the Kasilof and Kenai rivers (FP07-27B). The proposed totals (1,000 Chinook Salmon, 4,000 Sockeye Salmon, and 2,000 Pink Salmon) were to be a set quantity that would be allowed for harvest in the gillnet fishery proposed in 2007 to span both river systems, and were not based on a biological analysis. During the 2007 Federal Board Meeting cycle for the Kenai Peninsula fisheries, the OSM used this and numerous other proposals to generate proposed area wide regulations. One of the outcomes of this process was to set annual total harvest limits for the Kenai dip net/rod and reel fishery using the proposed numbers from FP07-27B.

The current annual total harvest limits for the Kenai River dip net/rod and reel fishery exist in addition to the annual household limits that are in place for the same species, and create regulatory confusion and concern that all Federally qualified subsistence users will not be provided subsistence opportunity before annual total limits are achieved. For example, one of concerns expressed in opposition to the Kenai River

community gillnet fishery is that the one authorized gillnet could potentially harvest the total Sockeye Salmon annual total limit (4,000) at the Moose Range Meadows area by residents of Ninilchik prior to the time of year that residents of Cooper Landing and Hope harvest Sockeye Salmon at their preferred location in the Russian River. Removal of this annual total harvest limit would alleviate this concern and would allow the fishery to continue to be managed by annual household limits. The Federal in-season manager would continue to open and close the fisheries by Federal special action, if necessary.

Annual total harvest limits were also developed from proposal FP07-27B for the Kasilof River dip net/rod and reel fishery, in addition to annual household limits, and may be worth consideration for removal as well.

Effects of the Proposal

There are seven separate components to Fisheries Proposal FP17-09. All requested changes are to section §___.27(e)(10)(iv)(I), which authorizes the Kasilof River experimental community gillnet fishery. The request is for a complete rewrite of this regulatory section. If adopted, the following effects may occur:

- The community gillnet would be authorized as a permanent fishery in regulation rather than a five year experimental fishery.
- The fishing season would expand from the current July 1 to July 31 dates to a new May 1 to November 15 season.
- The operational plan requirement would be replaced with standard permit conditions.
- The primary contact (and issuer of the community gillnet permit) would switch from the Federal in-season manager to OSM.
- NTC would become the only organization authorized in Federal subsistence regulation to coordinate this fishery.
- The annual post season reporting requirement for the fishery would be removed.
- A collaborative process would be established to inform and consult with NTC and the Council prior to potential closures or other Federal actions.

The community gillnet would be authorized as permanent in regulation rather than a five year experimental fishery. Adopting this proposal as written would provide the residents of Ninilchik with a permanent gillnet fishery on the Kasilof River. It would also shorten the experimental period previously authorized by the Board preventing further opportunities for assessment and review.

The alterations of dates for the fishing season would expand from the current July 1 to 31 dates to a new May 1 to November 15 season. This would create a higher probability of harvest in general and harvest of fish species other than Sockeye Salmon. This would provide additional subsistence harvest opportunity for Federally qualified subsistence users from the community of Ninilchik. The expanded season would

also increase the potential harvest of spawning Steelhead and outmigrating kelts during the time period prior to July 1, and late-run Chinook Salmon in the time period after July 31; both of which are currently species of concern for Federal and State managers. The requested time period also conflicts with regulations that prohibit the retention of Steelhead after August 15.

The operational plan requirement for the fishery would be replaced with standard permit conditions. The permit conditions would include: limiting the gillnet to 10 fathoms in length; direct construction of the net to target Sockeye, Chinook, Coho, and Pink Salmon; not allow obstruction of more than one half of the river; restrict setting the net within 200 feet of other subsistence stationary gear; require identification of person or persons responsible for overall operation of the gillnet as well as means for identifying persons authorized to supervise those fishing; and provisions for recording daily catches, ensuring removal of the dorsal fin of harvested fish, and identifying households to whom the catch was distributed. Additionally, the NTC would provide notice to the OSM no later than February 1 of the intent to operate a gillnet fishery, and the OSM would issue a subsistence gillnet permit no later than April 1.

The operational plan currently describes how fishing time and fish will be offered and distributed among households and residents of Ninilchik. Replacing this requirement with static permit conditions would reduce the burden on the proponent prior to, during, and following the fishery each year. However, the removal of the operational plan requirement would decrease the ability of the Federal in-season manager to make annual adjustments to the fishery as necessary, based on the prior years' harvest. The Federal in-season manager's delegated authority would still allow for issuance of emergency special actions to: open and close Federal subsistence fishing periods or areas provided under codified regulations; specify methods and means; specify permit requirements; set harvest and possession limits; and close and re-open Federal waters to non-subsistence fishing. Removal of the operational plan could also limit the ability to address issues with distribution of harvested fish in the community, should any arise. Additionally, this change would substantially decrease the interaction between the proponent and the Federal in-season manager.

The primary contact (and issuer of the community gillnet permit) would switch from the Federal in-season manager to OSM. The proponent was contacted to clarify the proposed requests, and confirmed that the request was to switch the primary contact from the in-season manager to OSM. If approved, the Federal Subsistence Board would take over the responsibilities of the Federal in-season manager by rescinding the current delegation of authority. The Board delegates its authority to agency field officials so that decisions can be more responsive and timely for Federally qualified subsistence users in real time situations and to address conservation and safety concerns at a local level. By no longer requiring the Federal in-season manager to issue the community gillnet permit, the interaction between the proponent and the Federal in-season manager would be diminished. Under this scenario, necessary management actions warranted during the fishery would have to go through the Federal Subsistence Management Program's special action request process. Although the special action request process is responsive, in-season fishery management in Alaska may require a more immediate response to protect continued viability of fish populations, to continue subsistence uses, or for issues of public safety. It often takes several weeks to process a special action request. OSM was established to support the Board and its decisions. OSM is not responsible for the management of Federal lands, nor is it identified in ANILCA Title VIII or the Environmental Impact

Statement for the Subsistence Management for Federal Public Lands in Alaska as a decision making entity within the Federal Subsistence Management Program.

NTC would become the only organization authorized in Federal subsistence regulation to coordinate this fishery. Ninilchik is the largest rural community on the Kenai Peninsula and has a population of 1,476 people, within 682 households, where 16.2% of its population is Alaska Native (U.S. Census Bureau 2010). As a Federally-recognized tribe, NTC may not be representative of all residents of this relatively diverse community. Currently, three different organizations in Ninilchik (NTC, Ninilchik Native Descendants, and Ninilchik Emergency Services) are permitted by ADF&G to conduct educational fisheries. Authorizing NTC as the only organization allowed to coordinate a community gillnet fishery may discourage Federally qualified users in the community that are not associated with NTC from participating in this subsistence opportunity. However, NTC has used this approach to operate this fishery for the past two seasons and the Kenai River community gillnet fishery for a portion of the 2016 season.

The annual post season reporting requirement for the fishery would be removed. The proponent states that this requirement is "undue and excessively burdensome" and that it is "not required by other fisheries". The report provides the persons or households operating the gear, hours of operation, and number of each species caught and retained or released. Removing this requirement would decrease the burden on the proponent during and following each fishing season. This information is used to assess the various aspects of the fishery and inform management decisions, and removal of this requirement would make those tasks more challenging for the Federal in-season manager. This type of information also helps identify data gaps and priority information needs for future research.

A collaborative process would be established to inform and consult with NTC and the Council prior to potential closures or other Federal actions. The creation of a collaborative decision making process prior to initiating actions on the fishery would give the proponent and the Council a greater influence over management than they currently have. In an effort to ensure that in-season management decisions are communicated broadly and fairly, the delegation of authority letter from the Federal Subsistence Board to the Federal in-season manager (**Appendices B and C**) requires that "The Project Leader (Federal in-season manager) will … notify/consult with local ADF&G managers, Regional Advisory Council members, and other affected Federal conservation unit managers concerning special actions being considered." Through the delegation of authority, it is the intent of the Board that subsistence management by Federal officials be coordinated with the ADF&G and involves Regional Advisory Council representatives to conserve healthy fish and wildlife populations while providing for subsistence uses. However, due to statutory constraints outlined in the Federal Advisory Committee Act (FACA) that dictates the requirements necessary to convene a Council meeting, which would be needed for the Council to make a recommendation regarding the fishery, the timeframe required would likely render the Council's involvement ineffective, as in-season management decisions are responsive to real-time conservation and safety concerns, and Council meetings require publication in the Federal Register (a time-consuming effort). Each letter of delegation explicitly stipulates criteria for the review of proposed special actions, guidelines for delegation, and reporting requirements. The Board strives to have complete adherence to these delegation requirements and works throughout the year to maintain relationships and open communications with relevant Councils, agencies, and departments. In addition, the Federal Subsistence Board's *Government-to-Government Tribal*

Consultation Policy already requires government to government consultation with Federally recognized tribes that may be affected by management actions, and the Ninilchik Traditional Council is a Federally recognized tribe. However, in-season management actions are exempted from this policy.

Finally, if the proposed changes are adopted in full, this would constitute a complete re-write of the regulations for this fishery and the new regulation would wholly eliminate one item. Currently, regulations dictate that fishing for each salmon species will be closed by Federal special action prior to the operational plan end dates if the annual total harvest limit for any salmon species is reached or suspended. This provision for fishery closures by Federal special action is not provided for in the newly proposed regulation language.

If the proposal is not adopted, the experimental community gillnet fishery would continue for the full five years as originally adopted by the Board in 2015 and currently stipulated in Federal subsistence regulations.

OSM CONCLUSION

Support FP17-09 **with modification** to expand the fishery to match the current dates allowed for Chinook and Sockeye Salmon under the Kasilof River Dip Net/Fish Wheel/Rod and Reel fishery and to name NTC as the coordinator of the community gillnet fishery for the duration of the experimental period. OSM's assessment of each requested regulatory change is provided following the modified regulatory language.

The modified regulation should read:

Cook Inlet Area

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

(I) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon through an experimental community gillnet fishery in the Federal public waters of the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch ***June 16 to August 15****. The experimental community gillnet fishery will expire 5 years after approval of the first operational plan.*

(1)Only one community gillnet can be operated on the Kasilof River. The gillnet cannot be over 10 fathoms in length, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2)One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration

permit will be issued ***during the 5 year experimental period*** *to* ***the Ninilchik Traditional Council*** ~~*an organization*~~ *that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager. The experimental community gillnet will be subject to compliance with Kenai National Wildlife Refuge regulations and restrictions.*

(i)Prior to the season, provide a written operational plan to the Federal fishery manager including a description of fishing method, mesh size requirements, fishing time and location, and how fish will be offered and distributed among households and residents of Ninilchik;

(ii)After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.

(3)The ***Ninilchik Traditional Council*** ~~*gillnet owner (organization)*~~ *may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:*

(i)Identifies a person who will be responsible for fishing the gillnet;

(ii)Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4)Fishing for Sockeye, Chinook, Coho and Pink salmon will be closed by Federal Special Action prior to the operational plan end dates if the annual total harvest limits for any salmon species is reached or suspended.

(5)Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River. All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location.

(i)A portion of the total annual harvest limits for the Kasilof River will be allocated to the experimental community gillnet fishery.

(ii)The gillnet fishery will be closed once the allocation limit is reached.

(6)Salmon taken in the experimental community gillnet fishery will be included as part of the dip net/rod and reel fishery annual household limits for the Kasilof River.

(7)Residents of Ninilchik may retain other species incidentally caught in the Kasilof River . When the retention of rainbow/steelhead trout has been restricted under Federal subsistence regulations, the gillnet fishery will be closed.

(8)Before leaving the site, all harvested fish must be marked by removing their

dorsal fin, and all retained fish must be recorded on the fishing permit.

(9)Failure to respond to reporting requirements or return the completed harvest permit by the due date listed on the permit may result in issuance of a violation notice and will make you ineligible to receive a subsistence permit during the following regulatory year.

Assessment of Requested Regulatory Changes

Request 1

The proponent requests the Board remove the experimental condition of the Kasilof River community fishery to make it permanent.

Points to Consider:

1. The Board specifically adopted a five-year timeframe for this experimental community gillnet fishery.

2. The removal of the experimental condition of this community fishery would preclude the review timeline that the Board already agreed upon.

3. Currently, only one partial and one full season for this new fishery have been implemented.

*OSM's conclusion is to **Oppose** this request. The quantity of information provided by this fishery to date does not provide enough data as a basis to remove the experimental nature of the gillnet fishery.*

Request 2

The proponent requests the Board expand the annual duration of the fishery to May 1 through November 15, from the current July 1 to 31.

Points to Consider:

1. The requested expanded timeframe of May 1 through November 15 would create a higher probability of capturing the small stock of Steelhead during their spawning period in the spring, during their emigration period in the spring, and during their immigration period in the fall.

2. The requested expanded timeframe of May 1 through November 15 would increase the probability of fishing a gillnet in a known spawning area for Coho Salmon.

3. The requested expanded timeframe of May 1 through November 15 would increase the probability of establishing a fishery that conflicts with existing Federal subsistence regulations (harvest of Steelhead prohibited after August 15, and harvest of salmon species outside of their established seasons).

OSM's conclusion is to ***Support*** *this request* ***with modification*** *to expand the fishery to match the current dates allowed for Chinook and Sockeye Salmon harvest under the Kasilof River Dip Net/Fish Wheel/Rod and Reel fishery in this same location, from June 16 to August 15.*

Suggested regulatory language would read:

> *(I) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon through an experimental community gillnet fishery in the Federal public waters of the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch* ~~*July 1-31*~~***June 16 to August 15****. The experimental community gillnet fishery will expire 5 years after approval of the first operational plan.*

Request 3

The proponent requests the Board replace the operational plan requirement of the permit with specific permit conditions.

<u>Points to Consider:</u>

1. The Council and the Board both unanimously supported Proposal FP15-11 to add this fishery with the understanding that the USFWS conservation concerns could be addressed though the annual operational plan.

2. Removal of the operational plan requirement would decrease the opportunity for the Federal in-season manager and community gillnet fishery operating organization to collaborate and make adjustments to the fishery as necessary, based on the prior years' harvest and any other issues that may arise.

3. Current regulations dictate that fishing for each salmon species will be closed by Federal special action prior to the operational plan end dates if the annual total harvest limit for any salmon species is reached or suspended, and removal of the operational plan requirement would render this moot. Additionally, this restriction is not provided for in the newly proposed regulatory language.

4. This change would decrease the potential for collaboration between the proponent and the Federal in-season manager prior the start of the annual season.

5. The change could limit the ability to address issues with distribution of fish in the community and safety concerns, should any arise.

6. This change would decrease the burden on the proponent prior to the fishery each year.

OSM's conclusion is to ***Oppose*** *this request. This requirement should remain for the duration of the experimental time period for this fishery to address conservation concerns, regulatory requirements, and logistic issues prior to the start of this fishery each year, as the Board intended.*

Request 4

The proponent requests the Board make OSM the issuer of the registration permit for the fishery rather than the Federal in-season manager.

Points to Consider:

1. Moving issuance of permits and management of the fishery to OSM would substantially slow the process as OSM does not currently have delegated authority over the fishery or the infrastructure to conduct in-season management of fisheries.

2. The Federal Subsistence Board would take over the responsibility of the Federal in-season manager by rescinding the delegated authority.

3. Absent the in-season manager, management of the fishery would be conducted through the Federal Subsistence Program's Special Action Request Process.

4. Fishery management in Alaska may require a more immediate response than the Special Action Request Process to protect continued viability of fish populations, continuation of subsistence uses, or for issues of public safety.

*OSM's conclusion is to **Oppose** this request. The Board delegates its authority to agency field officials so that decisions can be more responsive and timely in real time situations to address conservation and safety concerns at a local level. Running the fishery through OSM and the Board will not allow for that same timely response.*

Request 5

The proponent requests the Board name the Ninilchik Traditional Council as the coordinator of the community gillnet fishery in regulation.

Points to Consider:

1. As a Federally- recognized tribe, NTC may not be representative of all residents of Ninilchik.

2. Designating NTC in regulation as the organization allowed to coordinate a community gillnet fishery may discourage Federally qualified subsistence users in the community not associated with NTC from participating in the fishery.

3. This is effectively how NTC has conducted this fishery for the past two seasons.

*OSM's conclusion is to **Support** this request **with modification** that NTC be named as the coordinator of the community gillnet fishery for the duration of the experimental period. This would allow time for community input on NTC's role prior to a decision by the Board on whether to make this fishery permanent.*

Suggested regulatory language would read:

(2)One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued ***during the five year experimental period*** *to* ***the Ninilchik Traditional Council*** ~~*an organization*~~ *that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager. The experimental community gillnet will be subject to compliance with Kenai National Wildlife Refuge regulations and restrictions.*

(3)The ***Ninilchik Traditional Council*** ~~*gillnet owner (organization)*~~ *may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:*

Request 6

The proponent requests the Board remove the annual report requirement.

Points to Consider:

1. The current regulation requires that after the season, the organizer of the fishery will provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.
2. Removal would mean that information provided to the Federal in-season manager and used to assess the fishery, including number of Federally qualified subsistence users participating in the fishery and any conservation impacts on non-target species, would no longer be required of the proponent.
3. This would decrease the burden on the proponent during and following the fishery each year.
4. This would make the task of assessing the fishery and its impacts to non-target species more challenging for the Federal in-season manager and the Board each year.
5. Information provided in these types of reports helps to identify data gaps and set priority information needs for future research.

OSM's conclusion is to ***Oppose*** *this request. Given the biological concerns that have been raised for this fishery, OSM believes that any additional information provided in an annual post season report would be important for assessing the fishery and helping to direct future research.*

Request 7

The proponent requests the Board establish a collective process through which NTC and the Southcentral Alaska Subsistence Regional Advisory Council are informed and consulted prior to any potential closures or other actions by the Federal in-season manager.

Points to Consider:

1. Statutory constraints outlined in the Federal Advisory Committee Act (FACA) dictate the necessity for convening a publically-noticed Council meeting, which would be required for the Council to make a recommendation regarding the fishery. The current structure of Title VIII only provides that the Councils may make recommendations to the Board, not to persons with delegated authority. However, consultation with Council chairs (not Councils as a whole) is part of the regulatory process in place for special action requests.
2. The creation of a collaborative decision making process prior to initiating actions on the fishery would give the proponent a greater influence over management than they currently have.
3. If consultation with the entire Council is desired, the timeframe required to convene a Council meeting would likely render the Council's involvement ineffective, as in-season management decisions are responsive to real time conservation and safety concerns, and Council meetings require publication in the Federal Register (a time-consuming effort).
4. In an effort to ensure that in-season management decisions are communicated broadly and fairly, the delegation of authority letter from the Federal Subsistence Board to the Federal in-season manager requires that "The Project Leader (Federal in-season manager) will … notify/consult with local ADF&G managers, Regional Advisory Council members, and other affected Federal conservation unit managers concerning special actions being considered."
5. Through the delegation of authority, it is the intent of the Board that subsistence management by Federal officials be coordinated with the Alaska Department of Fish and Game and involve Regional Advisory Council representatives to conserve healthy fish and wildlife populations while providing for subsistence uses.
6. While operating under delegated authority from the Board, the Federal in-season manager is obligated to engage in tribal consultation consistent with the Board's *Government-to-Government Tribal Consultation Policy.* Under "Communication," that policy provides, "For in-season management decisions and special actions … to the extent practicable, two-way communication will take place before decisions are implemented." As NTC happens to be both the party administering the community gillnet and a Federally recognized tribe that may be affected by management decision, government to government consultation with NTC should already be occurring pursuant to that policy. However, an exemption from this policy for in-season management decisions may prevent consultation during the fishery season.

OSM's conclusion is to ***Oppose*** *this request. The Federal in-season manager, via delegated authority from the Board, is required to perform notification/consultation with affected Regional Advisory Council members and engage in government to government consultation with affected tribes. Additional regulatory language is unnecessary.*

LITERATURE CITED

Alaska Sport Fishing Survey Database. 2016. 1996–2014 survey data. Anchorage, AK: Alaska Department of Fish and Game, Division of Sport Fish. http://www.adfg.alaska.gov/sf/sportfishingsurvey/. Retrieved: June 27, 2016.

Anderson, J. 2016. Field Supervisor, Kenai Fish and Wildlife Field Office. Personal communication: email. U.S. Fish and Wildlife Service. Soldotna, Alaska.

Begich, R. N., J. A. Pawluk, J. L. Cope, and S. Simons. 2013. 2010-2012 Annual Management Report and 2013 recreational fisheries overview for Northern Kenai Peninsula: fisheries under consideration by the Alaska Board of Fisheries, 2014. Alaska Department of Fish and Game, Fishery Management Report No. 13-51, Anchorage, Alaska.

Begich R. 2016a. Area Management Biologist. Personal communication: phone. Alaska Department of Fish and Game. Soldotna, Alaska.

Begich R. 2016b. Kasilof River Early-Run King Salmon Sport Fishery Restrictions Announced, News Release, February 18, 2016.

Begich R. 2016c. Restrictions to Kasilof River early-run King Salmon Sport Fishery Lifted, News Release, June 16, 2016.

Bromaghin, J.F., K.S. Gates, and D.E. Palmer. 2010. A likelihood framework for joint estimation of salmon abundance and migratory timing using telemetric mark-recapture. North American Journal of Fisheries Management. 30: 1385-1394.

de Laguna, F. 1934. The archaeology of Cook Inlet, Alaska. Philadelphia: University of Pennsylvania Press. 264 pages.

Fall, J. A., R. T. Stanek, B. Davis, L. Williams, and R. Walker. 2004. Cook Inlet customary and traditional subsistence fisheries assessment. U.S. fish and Wildlife Service, Office of Subsistence Management, Fisheries Resource Monitoring Program, Final Report (Study No. 03-045). Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 285. Juneau, Alaska. 245 pages.

Faurot, D., and R. N. Jones. 1990. Run timing and spawning distribution of coho and late run Chinook salmon in the Kasilof River watershed, Alaska, 1987. Kenai Fishery Assistance Office, U.S. Fish and Wildlife Service, Alaska Fisheries Technical Report Number 9, Kenai, Alaska.

FSB. 2007a. Transcripts of the Federal Subsistence Board proceedings. May 8 – 10, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2007b. Transcripts of the Federal Subsistence Board proceedings. December 11 – 13, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2013. Transcripts of the Federal Subsistence Board proceedings. January 22 – 24, 2013. Office of Subsistence Management, USFWS. Anchorage, Alaska.

Gates, K.S. 2009. Spawning and seasonal distribution of adult Steelhead in the Kasilof River Watershed, Alaska, 2007 and 2008. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Field Office, Alaska Fisheries Data Series 2009-11, Soldotna, Alaska.

Gates, K.S. and J.K. Boersma. 2010. Spawning and seasonal distribution of adult steelhead in Southcentral Alaska's Kasilof River watershed from 2007 to 2009. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Field Office, Alaska Fisheries Data Series 2010-06, Soldotna, Alaska.

Gates, K.S., J.K. Boersma, D.E. Palmer, and J.F. Bromaghin. 2010. Run timing, abundance, and distribution of adult coho salmon in the Kasilof River Watershed, Alaska, 2007 - 2009. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Field Office, Alaska Fisheries Data Series 2010-03, Soldotna, Alaska.

Georgette, S. 1983. Ninilchik: Resource uses in a small, road-connected community of the Kenai Peninsula Borough In Resource use and socioeconomic systems: case studies of fishing and hunting in Alaskan communities. R. Wolfe and L. Ellanna, compilers. Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 61. Juneau, Alaska. Pages 170–187.

Kerkvliet, C.M. 2016. Area Management Biologist. Personal communication: phone. Alaska Department of Fish and Game. Homer, Alaska.

Kerkvliet, C.M., M.D. Booz, and B.J. Failor. 2013. Recreational fisheries in the Lower Cook Inlet Management Area, 2011-2013, with updates for 2010. Alaska Department of Fish and Game, Fishery Management Report No. 13-42, Anchorage, Alaska.

Krauss, M. E. 1982. Native peoples and languages of Alaska. Map. Alaska Native Language Center, University of Alaska Fairbanks. Fairbanks, Alaska.

Loshbaugh, D. 1993. Natives Get Fishery to Preserve Culture. Homer News. Vol. 20. No.28: 1,14.

Mills, M. J. 1994. Harvest, catch, and participation in Alaska sport fisheries during 1993. Alaska Department of Fish and Game, Fishery Data Series No. 94-28. Anchorage, Alaska. 179 pages.

Nelson, D., D. Athons, P. Berkhahn, and S. Sonnichsen. 1999. Area management report for the recreational fisheries of the Kenai Peninsula, 1995–1997. Alaska Department of Fish and Game, Division of Sport Fish, Fishery Management Report No. 99-3. Anchorage, Alaska. 244 pages.

Ninilchik Traditional Council. 2015. Kasilof subsistence fishery 2015, final report. Unpublished report prepared for the U.S. Fish and Wildlife Service. Ninilchik Traditional Council. Ninilchik, AK. 87 pp.

OSM. 2007. Staff analysis FP07-11, 12, 13, 27D, 29. Pages 143-170 *in* Federal Subsistence Board Meeting Materials. May 8-10, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska. 295 pp.

Reimer, A. M., and S. J. Fleischman. 2012. Abundance of late-run Kasilof River Chinook Salmon, 2005-2008. Alaska Department of Fish and Game, Fishery Data Series No. 12-63, Anchorage.

Shields, P., and A. Dupuis. 2016. Upper Cook Inlet commercial fisheries area management report, 2015. Alaska Department of Fish and Game, Division of Commercial Fisheries. Fishery Management Report No. 16-14, Anchorage, Alaska.

Stanek, R. 1980. Subsistence Fishery Permit Survey. Cook Inlet 1980. Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 30. Juneau, Alaska. 21 pages.

Stratton and Georgette. 1984. Use of Fish and Game by Communities in the Copper Basin, Alaska: A Report on a 1983 Household Survey. Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 107. Anchorage, Alaska.

U.S. Census Bureau. 2010. Profile of general population and housing characteristics for Ninilchik, Alaska. http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF. Retrieved: June 22, 2016.

USFWS. 2007. Federal subsistence harvest by community summary for the Cook Inlet Area subsistence Fisheries, 2007. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2008. Cook Inlet area Federal subsistence fisheries 2008 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2009. Cook Inlet area Federal subsistence fisheries 2009 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2010. Cook Inlet area Federal subsistence fisheries 2010 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2011. Cook Inlet area Federal subsistence fisheries 2011 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2012. Cook Inlet area Federal subsistence fisheries 2012 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2013. Cook Inlet area Federal subsistence fisheries final 2013 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2014. Cook Inlet area Federal subsistence fisheries 2014 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2015. Cook Inlet area Federal subsistence fisheries 2015 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

Williams, L., C. Venechuk, D. Holen and W. Simeone. 2005. Lake Minchumina, Telida, Nikolai, and Cantwell Subsistence Community Use Profiles and Traditional Fisheries Use. Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 265. Juneau, Alaska.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Support FP17-09 **with modification** to change the fishery dates to June 16 through August 15, and to require an annual report be submitted at the end of the fishing season.

The Council supported FP17-09 with two Council amendments, both proposed by the proponent (the Ninilchik Traditional Council) during their public testimony. The first amendment was to change the fishery date range to June 16 through August 15. This suggested modification would match the current Kasilof River dip net/fish wheel/rod and reel fishery dates for Sockeye Salmon and Chinook Salmon, and would align with the current Steelhead closure that begins August 16. The Council voiced support for this amendment as it provided increased opportunity for Federally qualified subsistence users, while at the same time continuing to afford protections for Steelhead Trout. Fisheries for Coho Salmon later in the year would continue to use a more selective gear type (rod and reel).

The second amendment to the proposal was to add an annual post-season reporting requirement. This requirement is a part of the current fishery, but would be removed if the proposal was adopted as written. The Council noted that this would be a way to ensure that pertinent information about the fishery be provided to the in-season manager as well as the Council for further discussion of the fishery at a later date.

The modified language should read:

> *§___.27(e)(10)(I)* ***The Ninilchik Traditional Council (NTC) may operate a community gillnet to provide for the subsistence uses of fish for the residents of Ninilchik. The community gillnet may be operated in the Federal public waters of the upper mainstream of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch from June 16 – August 15th . The gillnet fishery shall target the harvest of Sockeye, Chinook, Coho, and Pink Salmon. Other non-salmon fish harvested by the gillnet may be retained.***
>
> > ***(1) The Ninilchik Traditional Council shall provide notice to the Office of Subsistence Management no later than February 1st of its intent to operate a gillnet fishery. No later than April 1st, a subsistence gillnet permit will be issued by the Office of Subsistence Management in consultation with the Federal in-season fishery manager, the Kenai National Wildlife Refuge Manager, and the Ninilchik Traditional Council.***
> >
> > ***(2) The permit conditions shall include:***
> >
> > > ***(i) Provisions that the gillnet may be not be over 10 fathoms in length, shall be constructed such that it is directed at harvesting Sockeye, Chinook, Coho, and Pink Salmon, may not obstruct more than half of the river width with stationary fishing gear, and may not be set within 200 feet of other subsistence stationary gear.***
> > >
> > > ***(ii) Identification of the person or persons who will be responsible for the overall***

operation of the gillnet as well as a means for identifying persons authorized to supervise members of the community engaged in fishing the net.

(iii) Provisions for recording daily catches, ensuring that removal of the dorsal fins of harvested fish, and identifying the Ninilchik households to whom the catch was distributed.

(iv) Provisions for NTC's reporting of all harvested fish within 72 hours of leaving the gillnet location.

(v) Identification of a collaborative process for making determinations about potential closures or other actions affecting the gillnet fishery through which NTC and the SCRAC are fully informed and consulted prior to the implementation of any such action.

(vi) Provisions for providing written documentation after the season of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.

(3) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River.

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.

The majority of the Interagency Staff Committee agreed the fishery should remain experimental until the 5-year temporary period ends; thus, major changes to the regulations would be more appropriate at that time. One exception is the current season's duration, which could be extended to examine if more fishing opportunity may be provided without impacting species or stocks of concern (e.g., small population of steelhead). A season extension from the current Jul. 1 – Jul. 31 season to Jun. 16 – Aug. 15 is consistent with a portion of the Southcentral Regional Advisory Council's recommendation and fits within the existing dip net/rod and reel season for Sockeye and Chinook salmon in the Kasilof River.

The Board could choose to vote against the other aspects of the Southcentral Regional Advisory Council's recommendation because:

- doing so would maintain the experimental status of the fishery;
- there is not substantial evidence at this time to suggest the changes are necessary (especially when this fishery will be evaluated during the next fishery cycle); and
- the operational plan requirement is currently being used to ensure conservation concerns are addressed and all rural residents of Ninilchik have equal access to fish harvested in the community

gillnet. Eliminating the requirement at this point, especially if the season were to be extended, may negatively impact principles of fish and wildlife management and the satisfaction of subsistence needs.

If the Board chooses to vote only in favor of a season extension, the other aspects of the Southcentral Regional Advisory Council's recommendation could be reassessed during the next Fisheries Regulatory Cycle when the Board determines the future status of the current experimental fishery.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-09: This proposal was submitted by the Ninilchik Traditional Council and requests seven different changes to the experimental community gillnet fishery on the Kasilof River: 1) removal of the experimental title; 2) expansion of the season; 3) to have the U.S. Fish and Wildlife Service (USFWS) Office of Subsistence Management (OSM) issue the registration permit (rather than the Federal in-season manager); 4) to replace the operational plan requirement of the permit with specific permit conditions; 5) to name the Ninilchik Traditional Council (NTC) in regulation as the coordinator of the community gillnet fishery; 6) to remove the postseason reporting requirement; and 7) to establish a collaborative process through which NTC and the Southcentral Alaska Subsistence Regional Advisory Council are informed and consulted prior to any potential closures or other actions by the Federal in-season fishery manager.

Introduction: During the 2015 Federal Subsistence Board regulatory cycle, Proposal FP15-11 was adopted at the Board's January 2015 public meeting. This proposal established an experimental community gillnet fishery opportunity on the Kasilof River for residents of Ninilchik. The first experimental community gillnet fishery on the Kenai River occurred July 13–July 31, 2015, and harvest was 223 sockeye salmon and 1 lake trout. There were no Chinook salmon or steelhead caught and 22 sockeye salmon, 15 pink salmon, and 1 Dolly Varden were released. In 2016, the second experimental community gillnet fishery took place July 3–July 27. Preliminary harvest was 93 sockeye salmon and 1 Chinook salmon, with 2 sockeye salmon released; there were no rainbow or steelhead trout caught.

Impact on Subsistence Users: Ninilchik Traditional Council has expressed that a gillnet provides them with a meaningful subsistence opportunity. Use of a gillnet may increase their subsistence harvest.

Impact on non-Federally Qualified Subsistence Users: Placement of a set gillnet during the proposed times would have minimal impact on non-Federally qualified subsistence users.

Opportunities Provided by the State: The Kenai and Kasilof rivers are located in the Anchorage-Matsu-Kenai nonsubsistence area, (5 AAC 99.015(a)(3)) and subsistence fishing under state regulations is not permitted.

Personal use fishing, sport fishing, and other fishing authorized by permit (i.e., educational fisheries) are permitted on Kenai and Kasilof river stocks, as well as commercial fishing.

1. The following personal use fisheries are available on the Kasilof and Kenai rivers for the harvest of salmon (5 AAC 77.540), with an annual harvest limit of 25 salmon for the head of each household and 10 salmon for each additional household member (5 AAC 77.525):
    a. Kasilof River Gillnet Personal Use Fishery. From 2011–2015 the total average annual harvest was 85 Chinook salmon and 21,398 sockeye salmon. Permit data indicate that Ninilchik households harvested an average of 113 sockeye salmon annually.
    b. Kasilof River Dip Net Personal Use Fishery. From 2011–2015 the total average annual harvest was 77,245 sockeye salmon, and permit data indicate that Ninilchik households harvested an average of 396 sockeye salmon.
    c. Kenai River Dip Net Personal Use Fishery. From 2011–2015 the total average annual harvest was 433,867 sockeye salmon, and permit data indicate that Ninilchik households harvested an average of 1,768 sockeye salmon.

2. Other fisheries authorized by permit (i.e., educational fishery; 5 AAC 93.200—5 AAC 93.235) that are used by Ninilchik residents to harvest salmon:
    a. Ninilchik Traditional Council Educational Fishery Permit, which allows a total salmon quota of 2,800 annually.
    b. Ninilchik Native Descendants Educational Fishery Permit, which allows a total salmon quota of 2,800 annually.
    c. Ninilchik Emergency Services Educational Fishery Permit, which allows a total salmon quota of 250 annually.

    In these fisheries from 2011–2015 the combined average annual harvest was 706 sockeye, 110 Chinook salmon, and 1,143 salmon (all species combined).

Conservation Issues: There are no stock concerns for Kasilof River Chinook, sockeye, coho, or pink salmon as defined by the *Alaska Sustainable Salmon Fisheries Policy*. There currently is no inseason assessment of Chinook salmon abundance but current harvest levels are thought to be sustainable based upon mark-recapture studies conducted during 2005 – 2008.

In addition, rainbow/steelhead trout are managed more conservatively in the Kasilof River than under statewide regulations under the *Wild Trout Policy,* with prohibiting retention below the Sterling Highway Bridge. The department has submitted a proposal for consideration at the February 2017 Upper Cook Inlet Alaska Board of Fisheries meeting seeking to prohibit the retention of rainbow/steelhead trout in the entire Kasilof River drainage and establish a seasonal spawning closure where all sport fishing is closed May 1 – June 10.

Recommendation: The State concurs with the OSM recommendations, as follows:

Request 1: OPPOSE removing the experimental condition of the Kasilof River community gillnet fishery. Currently, only one partial and one full season for this new fishery have been implemented.

Request 2: SUPPORT WITH MODIFICATION the expansion of the annual duration to June 16–August 15 from the current July 1–31.

Request 3: OPPOSE replacing the operational plan with permit conditions, as long as the fishery remains in experimental status. There are conservation concerns and logistics issues that are best addressed through the operational planning process.

Request 4: OPPOSE requiring USFWS OSM to issue the permits, rather than the USFWS inseason manager. USFWS OSM currently does not have delegated authority to issue the permits.

Request 5: SUPPORT WITH MODIFICATION that NTC be named as the coordinator of the community gillnet fishery for a five-year period. This would allow time for community input on the role of NTC during the experimental phase.

Request 6: OPPOSE removing the annual report requirements. Given the biological concerns with this fishery, any additional information provided in the annual postseason report is important for assessing the fishery and directing future research.

Request 7: OPPOSE establishing a collective process through which NTC and the Southcentral Regional Subsistence Advisory Council are informed and consulted. The Federal inseason manager already has delegated authority to perform notification/consultations with affected parties.

WRITTEN PUBLIC COMMENTS

May 17, 2016

Michael Adams
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Cooper Landing, AK 99572

Attn: Theo Matuskowitz Federal Subsistence Board
Office of Subsistence Management
1011 E. Tudor Rd., MS-121
Anchorage, Ak 99503-6199

As a Cooper Landing resident and subsistence fisherman I oppose FP17-09 and FP17-10. These proposals attempt to liberalize the gill net fishing season and limits on the Kasilof and Kenai River while completely disregarding conservation measures intended to protect stocks of low abundance and species of concern.

FP17-09: Expanding the season for the gill net fishery on the Kasilof will result in increased steelhead mortality, a species of very low abundance that is currently very conservatively managed. It will also result in an increase in harvest of all river species including an increased catch of spawning king salmon, a species of declining abundance. By including language that allows retention of all bycatch the proposal seems to have the intent of targeting all species in the watershed regardless of abundance and without consideration of available scientific data or traditional knowledge.

FP-17-10:A liberalization of the gill net fishery on the Kenai River is unwarranted based on an existing meaningful priority through the use of expanded rod and reel limits and existing dip net fisheries. I fish the Kenai with these already existing methods and I can attest that they work. It also threatens to undermine the extensive management and conservation measures that have been implemented through the use of scientific data and an understanding of species abundance and spawning strength locality and timing. A gill net fishery located on some of the most essential spawning grounds in the Kenai watershed Is by Its very nature unsustainable. Expanding the season and limits for this fishery In the face of conservation concerns would have far reaching implications and reflects a lack of concern for the future of the fishery.

These proposals could result in unsustainable harvest of all species in what are arguably the Kenai Peninsulas two most important watersheds without concern for the future of the fisheries and the people who rely on them. A key to sustainable subsistence life is an understanding of species lifecycles and populations. To continually expand harvest opportunity without considering the short term and long term effects on the fishery is irresponsible and does not reflect the traditional values of subsistence and certainly does not reflect a respect for conservation.

Please vote no on FP17-09 and Fp17-10to ensure there are still sustainable numbers of fish, and therefore an opportunity for subsistence, in the years to come.

Sincerely,

Michael Adams

Chris Degernes
PO Box 683
Cooper Landing, AK 99572
Jaeger06@hotmail.com

May 22, 2016

Office of Subsistence Management
Attn: Regulations Specialist
1011 East Tudor Road, Mail Stop 121
Anchorage, Alaska 99503-6199

Re: Comments on Federal Subsistence Management Program 2017-2019 Fisheries Proposals Dear Mr.

Matuskowitz:

I have reviewed the specific proposals relating to regulation changes within the Cook Inlet area, specifically addressing the Kenai River. I support the recommendations found within FP 17-06, FP 17-07 and FP 17-08, while I oppose the proposals made within FP 17-09 and FP 17-10.

I am an authorized federal subsistence permittee residing in Cooper Landing and have utilized the dip net fishery at the Russian River Falls for a number of years. I believe that the conservation and sustainable management of our anadromous and resident fish is paramount to providing for the long term sustainability of our fisheries, thereby supporting our continued quality of life. If a particular method of harvest (i.e., gill net use) creates a risk to certain populations of fish, then it should be prohibited in favor of more discriminate type of harvest (i.e., rod and reel, dip net, etc.) Expediency and efficiency should not be factors in deciding what method of harvest may be permitted.

I urge that the new regulations delete permanently any provision authorizing gill nets on the Kenai River for subsistence harvest purposes, and that all Kenai River Chinook salmon are afforded protection while their numbers are at such historically low numbers. Thank you for considering my comments.

Sincerely, Chris

Degernes

Wednesday, May 25, 2016

ATTN: Theo Matuskowitz
Federal Subsistence Board
Office of Subsistence Management
1011 E. Tudor Road, MS-121 Anchorage, AK 99503-6199 Subsistence@fws.gov

FSB 2017 – 2019 Fisheries Proposals

Dear Federal Subsistence Board / Southcentral Regional Advisory Council;

Kenai River Sportfishing Association (KRSA) is a 501 c 3 charitable non-profit organization, with a focus on fishery conservation for the Kenai River, greater Cook Inlet and Alaska. We provide these comments on the FSB 2017 – 2019 Fisheries Proposals, specifically those for the Cook Inlet region, FP17-06 – 10.

KRSA supports fisheries management regulations that accomplish two objectives: 1) provide meaningful access and opportunity to subsistence, personal use, sport and commercial fisheries, and 2) follow necessary fishery conservation principles. With respect to time, area, methods and means for subsistence, personal use and sport fisheries within the Kenai River drainage, we support the use of selective gear to harvest fish, such as rod and reel and dip nets. We do not support the use of non- selective gear, such as gillnets, to harvest fish within the Kenai River drainage.

The reason is that selective gear, as opposed to non-selective gear, allows for the live release and high probability of survival for fish that are designated for non-retention for conservation purposes, such as the continued viability of specific fish stocks. Slot limits for fish stocks in fisheries management are similar to hunting restrictions, such as antler restrictions for moose (spike or fork antler, or 50-inch spread, or at least three brow tines on one antler). Judicial review on antler restrictions for subsistence moose hunting determined that a meaningful subsistence priority is not absolute and must be reasonably balanced with conservation issues and other uses.

Conservation based fishery regulations on the Kenai River include non-retention of slot-limit Chinook and of rainbow trout / Dolly Varden over 18 inches, for waters below Skilak Lake. Above Skilak Lake there is no retention of Chinook or rainbow trout / Dolly Varden over 16 inches. On the Kasilof River such regulations include the non-retention of Steelhead Trout.

As such, KRSA supports the adoption of FP17 – 06 and FP17 – 07, which would remove gillnets as a method and means for gear in subsistence fisheries on the Kenai River. We concur with the fisheries conservation rationale as outlined in these respective proposals for this change. FP17-08 is a complex proposal that seeks to both streamline and change regulations, and we have no comment on each of the subcomponents at this time.

FP17-09 and FP17-10 seek to extend the window of time for use of a community gillnet (NTC) on the Kasilof and Kenai Rivers respectively. On the Kasilof River, the proposal seeks to change the use of a community gillnet from July 1 – July 31 to May 1 – November 15. We do not support the proposed expansion of the time frame due to fishery conservation concerns relating to the retention of Chinook salmon and Steelhead Trout during the expanded timeframe. On the Kenai River, the proposal seeks to change the use of a community gillnet from June 15 – August 15 to May 1 – November 15. We do not support the proposed expansion of time frame due to fishery conservation concerns relating to the retention of Chinook salmon, rainbow trout and Dolly Varden. The rationale of the fishery conservation concern is clearly outlined in the USFWS proposals FP17 – 07 and FP17 – 08.

We encourage both the Southcentral RAC and the Federal Subsistence Board remove the use of gillnets as gear for subsistence fisheries on the Kenai River, and to keep in place the time frame for its use on the Kasilof River. The justification is based on well documented fishery conservation issues that have been articulated thoroughly by both federal and state fishery professionals.

Thank you for your time and consideration on this mat-

ter. Respectfully,

Ricky Gease, Executive Director
Kenai River Sportfishing Associa-
tion

Mckinney, Kayla
<kayla_mckinney@fws.gov>

Fwd: Cook Inlet Area Fisheries proposals

AK Subsistence. FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:04 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard
<amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney

---------- Forwarded message ----------
From: **George Heim** <gheim2000@gmail.com>
Date: Thu, May 26, 2016 at 7:33 PM
Subject: Cook Inlet Area Fisheries proposals To:
subsistence@fws.gov

To Whom It May Concern:

I am writing to express support for FP-17-06, FP-17-07, & FP-17-08 and to oppose FP-17-09, & FP-17-10.

The Cooper Landing Advisory Committee held a meeting on May 14th to discuss these proposals. Due to predictable schedule conflicts for the
AC members at this time of year and the short notice between publishing the proposals and due date for comments, we were not able to convene a quorum. However, the members present were unanimous in supporting proposals to remove gill nets from the Kenai and to close a section of the Kenai River that is important for Chinook spawning activities and to oppose liberalization of gill nets in the Kasilof and to expand gill nets in the Kenai.

We were concerned about bycatch of non-target species in both waters including rainbow trout, dolly varden and king salmon in the Kenai and steelhead and king salmon in the Kasilof. Of particular concern was the possibility that rainbow trout in the Kenai and Steelhead in the Kasilof would be caught in the nets. Since there is no retention allowed for these species in those waters, and since any fish in a gill net is very likely to be killed persons operating the nets would be in violation of both State and Federal regulation and subject to penalties. Obviously, this is not a desirable situation. Even if a fish is released from the net alive, it will have been injured and is likely to die after release. This would be wanton waste and should not be allowed.

Sincerely,

George Heim, President

Cooper Landing Advisory Committee to ADF&G

907-599-2000
PO Box 725
Cooper Landing, AK 99572

To the Members of the Southcentral Regional Advisory Council: Re: Opposition to FP17-09

As a full time resident of Cooper Landing, I am writing to oppose the approval of the Proposal to Change Federal Subsistence Regulations FP17-09. This proposal by the Ninilchik Traditional Council to operate a community gillnet on the Kasilof River for 6.5 months a year to harvest of all salmon species and retention of non-salmon fish violates the requirements of ANILCA §802. The use of a non-selective fishing tool like a gillnet in the Kenai River is not:

1. "consistent with sound management principles and the conservation of health populations of fish and wildlife"
2. "consistent with management of fish and wildlife in accordance with recognized scientific principles". (ANILCA §802)

In addition, FP17-09 would also violate section §815 of ANILCA in that a gillnet

> "permits the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the healthy (fish) populations". (ANILCA §815)

Sincerely,

Kathryn L.
Recken
19567 Rusty's Way
PO Box 747
Cooper Landing, AK 99572 kreck-

en@gmail.com

May 22, 2016

Comment on
FP17-08 + 09

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

Dear Theo,

I am opposed to proposal FP17-07, Nnilchik's proposal to place a gill net across the Kenai River as well as FP17-08 that restricts when & where a person may take late run Chinook. In addition, I am opposed to proposal FP17-09 that requests that only residents of Nenitchik may harvest salmon, with a gill net on the Kasilof and Kenai Rivers. These proposals go against conservation efforts to maintain a healthy number of salmon for future generations on these rivers.

As a member of the Cooper Landing Community for the last twelve years I am grateful for the ability to subsistence fish through traditional means using rod and reel and dip net because these methods prove that we can maintain and conserve the Kenai River for salmon.

Thank you for the opportunity to have a voice in continuing to protect conservation efforts as well as subsistence fishing rights on the Kenai River.

Gratefully,
Joyce Koppert

Appendix A – State of Alaska Sustainable Salmon Fisheries Policy

5 AAC 39.222. Policy for the management of sustainable salmon fisheries

(a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

(1) while, in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

(2) in formulating fishery management plans designed to achieve maximum or optimum salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;

(3) to effectively assure sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

(1) wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the

effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

(C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;

(D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;

(E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;

(F) salmon escapement and harvest management decisions should be made in a manner that protects nontarget salmon stocks or species;

(G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;

(H) salmon abundance trends should be monitored and considered in harvest management decisions;

(3) effective management systems should be established and applied to regulate human activities that affect salmon as follows:

(A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;

(B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;

(C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for by management plans or by application of the board's allocation criteria;

(D) management agencies should have clear authority in statute and regulation to

(i) control all sources of fishing mortality on salmon;

(ii) protect salmon habitats and control nonfishing sources of mortality;

(E) management programs should be effective in

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(G) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;

(H) the board will work, within the limits of its authority, to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized;

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;

(J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for sustainable management of existing salmon fisheries and wild salmon stocks;

(K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure sustainable management of wild salmon stocks;

(L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;

(M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;

(P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:

(A) effective mechanisms for dispute resolution should be developed and used;

(B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;

(C) the board's regulatory management and allocation decisions will be made in an open process with public involvement;

(D) an understanding of the proportion of mortality inflicted on each salmon stock by each user

group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including AS 16.05.251 (e) and AS 16.05.258 ; in the absence of a regulatory management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;

(E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

(A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;

(iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource;

(v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

(1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy salmon stocks and sustainable salmon fisheries;

(D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the

(i) identification of a new fishery or expanding fishery;

(ii) identification of any salmon stocks, or populations within stocks, that present a concern

related to yield, management, or conservation; and

(iii) description of management and research options to address salmon stock or habitat concerns;

(2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize the adverse effects on salmon habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;

(D) prevent overfishing; and

(E) provide conservation and management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource;

(3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will, as appropriate, amend or develop salmon fishery management plans to address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including

(A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;

(B) identification of salmon stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;

(D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; and

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority

that impacts the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;

(2) "allocation criteria" means the factors set out in AS 16.05.251 (e) considered by the board as appropriate to particular allocation decisions under 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007;

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(4) "burden of conservation" means the restrictions imposed by the board or department upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;

(5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time of most salmon species;

(6) "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;

(7) "depleted salmon stock" means a salmon stock for which there is a conservation concern;

(8) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;

(9) "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;

(10) "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;

(11) "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;

(12) "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;

(13) "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;

(14) "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to

result in, impacts leading to yield, management, or conservation concerns;

(15) "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

(16) "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;

(17) "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;

(18) "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(19) "inriver run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;

(20) "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced salmon stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;

(21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG, BEG, OEG, or other specified management objectives for the fishery; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(23) "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;

(24) "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a nonconsumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;

(28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that

are expressed physically, such as body size and length at age;

(29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;

(30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;

(31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;

(32) "salmon" means the five wild anadromous semelparous Pacific salmon species Oncorhynchus sp., except steelhead and cutthroat trout, native to Alaska as follows:

(A) Chinook or king salmon (O. tschawytscha);

(B) sockeye or red salmon (O. nerka);

(C) coho or silver salmon (O. kisutch);

(D) pink or humpback salmon (O. gorbuscha); and

(E) chum or dog salmon (O. keta);

(33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;

(34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;

(35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated or managed for; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board; the SEG will be developed from the best available biological information; and should be scientifically defensible on the basis of that information; the SEG will be determined by the department and will take into account data uncertainty and be stated as either a "SEG range" or "lower bound SEG"; the department will seek to maintain escapements within the bounds of the SEG range or above the level of a lower bound SEG;

(37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

(40) "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;

(41) "yield" means the number or weight of salmon harvested in a particular year or season from a stock;

(42) "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;

(43) "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time;

(44) "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

History: Eff. 9/30/2000, Register 155; am 11/16/2000, Register 156; am 6/22/2001, Register 158; am 6/10/2010, Register 194

Authority: AS 16.05.251

Appendix B – 2002 Delegation of Authority Letter

Federal Subsistence Board

3601 C Street, Suite 1030
Anchorage, Alaska 99503

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

FOREST SERVICE

MAY - 3 2002

FWS/OSM/C:/SonnevilInSeason

Mr. Gary Sonnevil, Project Leader
U.S. Fish and Wildlife Service
Kenai Fishery Resources Office
43655 Kalifornski Road
Kenai, Alaska 99611

Dear Mr. Sonnevil:

This letter delegates specific regulatory authority from the Federal Subsistence Board to you as Project Leader of the Kenai Fishery Resources Office to issue special actions when necessary to assure the conservation of healthy fish stocks and to provide for subsistence uses of fish in Federal waters subject to ANILCA Title VIII (Federal waters) in the Cook Inlet Area.

Overview

Federal managers are responsible for local management of subsistence fishing by qualified rural residents in Federal waters; this includes the authority to restrict all uses in Federal waters if necessary to conserve healthy fish stocks or to provide for subsistence uses in Federal waters. State managers are responsible for in-season management of State subsistence, commercial, recreational, and personal use fisheries in all waters.

It is the intent of the Federal Subsistence Board that subsistence fisheries management by Federal officials be coordinated with the Alaska Department of Fish and Game and involve Regional Advisory Council representatives to conserve healthy fish stocks while providing for subsistence uses. Federal managers are expected to cooperate with State managers and minimize disruption to resource users and existing agency programs, as agreed to under the Interim Memorandum of Agreement for Coordinated Fisheries and Wildlife Management for Subsistence Uses on Federal Public Lands in Alaska.

Page 1 of 5

000023

FEDERAL FISHERIES MANAGEMENT
DELEGATION OF AUTHORITY

1. **Delegation:** The Project Leader of the Kenai Fishery Resources Office is hereby delegated authority to issue emergency regulations (special actions) affecting fisheries in Federal waters as outlined under **3. Scope of Delegation**.

2. **Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which states: "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(d) and 50 CFR 100.19(d). 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 waters to non-subsistence 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 fish stocks or to continue subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations, shall be directed to the Federal Subsistence Board.

The Federal waters subject to this delegated authority are those within the Cook Inlet Area (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). The Project Leader will coordinate all local fishery decisions with all affected Federal land managers.

4. **Effective Period:** This delegation of authority is effective until superseded or rescinded.

5. **Criteria for Review of Proposed Special Actions:** The Project Leader will use the following considerations to determine the appropriate course of action when reviewing proposed special actions.

   1. Does the proposed special action fall within the geographic and regulatory scope of delegation?

2. Does the proposed special action need to be implemented immediately as a special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the annual regulatory cycle?

3. Does the supporting information in the proposed special action substantiate the need for the action?

4. Are the assertions in the proposed special action confirmed by available current biological information and/or by other affected subsistence users?

5. Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?

6. Is the proposed special action likely to achieve the expected results?

7. Have the perspectives of ADF&G managers and Regional Advisory Council representatives been fully considered in the review of the proposed special action?

8. Have the potential impacts of the proposed special action on all affected subsistence users within the drainage been considered?

9. Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?

10. After evaluating all information and weighing the merits of the special action against other actions, including no action, is the special action reasonable, rational and responsible?

6. **Guidelines for Delegation:**

1. The Project Leader 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.

2. The Project Leader will review special action requests or situations that may require a special action and all supporting information to determine (1) if the request/situation falls within the scope of authority, (2) if significant conservation problems or subsistence harvest concerns are indicated, and (3) what the consequences of taking an action may be on potentially affected subsistence users and non-subsistence users. Requests not within the delegated authority of the Project Leader will be forwarded to the Federal Subsistence Board for consideration. The Project Leader will keep a record of all special action requests and their disposition.

3. The Project Leader will immediately notify the Federal Subsistence Board through Tom Boyd, Assistant Regional Director for Subsistence, U.S. Fish and Wildlife Service, and notify/consult with local ADF&G managers, Regional Advisory Council members, and other affected Federal conservation unit managers concerning special actions being considered.

4. The Project Leader will issue timely decisions. Users, affected State and Federal managers, law enforcement personnel, and Regional Advisory Council representatives should be notified before the effective date/time of decisions. If an action is to supersede a State action not yet in effect, the decision will be communicated to affected users, State and Federal managers, and Regional Advisory Council representatives at least 6 hours before the State action would be effective. If a decision is to take no action, the requestor will be notified immediately.

5. There may be unusual circumstances under which the Project Leader will determine that he/she should not exercise the authority delegated, but instead request that the Federal Subsistence Board should handle the special action request. In a similar vein, the Federal Subsistence Board may determine that a special action request should not be handled by the delegated official but by the Board itself (i.e. rescind the delegated authority for that specific action only). These options should be exercised judiciously and may only be initiated where sufficient time allows. Such decisions should not be considered where immediate management actions are necessary for fisheries conservation purposes.

7. Reporting: The Project Leader must provide to the Federal Subsistence Board 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.

8. Support Services: Administrative support for local fisheries management activities of the Project Leader will be provided by the Office of Subsistence Management, U. S. Fish and Wildlife Service, Department of the Interior.

This delegation of authority will provide subsistence users in the region a local point of contact and will facilitate a local liaison with State managers and other user groups. Timely local management decisions optimize the opportunity for users to harvest fish when and where they are available, without jeopardizing spawning escapement goals for specific stocks.

Should you have any questions about this delegation of authority, please feel free to contact Mr. Thomas H. Boyd, Assistant Regional Director for Subsistence, U. S. Fish and Wildlife Service, Office of Subsistence Management at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,

Mitch Demientieff, Chair
Federal Subsistence Board

Attachment: Map of the Cook Inlet Area

cc: Members of the Federal Subsistence Board
Mr. Ralph Lohse, Chair, Southcentral Alaska Subsistence Regional Advisory Council
Ms. Clare Swan, Member, Southcentral Alaska Subsistence Regional Advisory Council
Ms. Deb Liggett, Superintendent, Lake Clark/Katmai National Parks and Preserves
Mr. Steve Martin, Superintendent, Denali National Park and Preserve
Mr. Gary Candelaria, Superintendent, Wrangell-St. Elias National Park and Preserve
Mr. Robin West, Manager, Kenai National Wildlife Refuge
Mr. Greg Siekaniec, Manager, Alaska Maritime National Wildlife Refuge
Mr. Dave Gibbens, Chugach Forest Supervisor
Mr. Michael Kania, Seward District Ranger
Mr. Stanley Pruszenski, Assistant Regional Director - Law Enforcement, U.S. Fish and Wildlife Service
Mr. Frank Rue, Commissioner, Alaska Department of Fish and Game
Mr. Thomas H. Boyd, FWS Office of Subsistence Management

Appendix C – 2004 Reaffirmation of Delegated Authority Letter

United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
Office of Subsistence Management
3601 C Street, Suite 1030
Anchorage, Alaska 99503

FWS/OSM/delegation

MAY 17 2004

Mr. Gary M. Sonnevil, Project Leader
U.S. Fish and Wildlife Service
Kenai Fishery Resources Office
P.O. Box 1670
Kenai, Alaska 99611

Dear Mr. Sonnevil:

This letter is to reaffirm your in-season fishery management delegation from the Federal Subsistence Board. In the "original" 2002 delegation letter, it was noted that, "This delegation of authority is effective until superseded or rescinded."

For your easy reference, I am attaching another copy of the original delegation letter. The Federal Subsistence Board made the delegation of authority to your position, so in some cases the name on the original delegation letter may differ from the person currently in that position. Please share the delegation information with staff who will be assisting you during the fishing season.

Joint news releases are used when State and Federal in-season managers agree on a course of action. Routine special actions can be handled locally. On the news release format, please list your name as the "Local Contact for Media".

Please notify Rod Campbell (rod campbell@fws.gov or 786-3696) directly, if it is likely that an in-season special action/news release will generate far-reaching concerns and questions of the Federal Subsistence Board. If you have specific questions during the fishing season, please feel free to contact Rod.

Please provide an electronic copy of all special actions and news releases (Federal and joint State-Federal) to this office c/o Maureen Clark (maureen clark@fws.gov or 786-3953). Maureen will distribute these documents so that Federal Register requirements are met, news releases are posted on the Subsistence home page, and copies are provided to the Staff Committee, Federal

law enforcement staff, and requesting individuals from the media. Please notify Maureen when contacted by the media concerning subsistence fishery management actions.

Sincerely,

Thomas H. Boyd
Assistant Regional Director

Enclosures

FP17-06/07 Executive Summary	
General Description	Proposals FP17-06 and FP17-07 are requests to the Federal Subsistence Board (Board) to eliminate gillnets as a method for harvest in the waters under Federal subsistence jurisdiction of the Kenai River. *Submitted by: Cooper Landing and Hope Federal Subsistence Community Group, and Mary Colligan, Assistant Region Director (Fisheries and Ecological Services) and Mitch Ellis, Regional Chief of Refuges (National Wildlife Refuge System) U.S. Fish and Wildlife Service*
Proposed Regulation	*§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:* ~~*(J) Residents of Ninilchik may harvest sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.*~~ ~~*(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary*~~

	~~*fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.*~~ ~~*(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its, use, and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:*~~ ~~*(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;*~~ ~~*(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons*~~

	~~or households operating the gear, hours of operation and number of each species caught and retained or released.~~ ~~(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting subsistence fishing permit that:~~ ~~(i) Identifies a person who will be responsible for fishing the gillnet;~~ ~~(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.~~ ~~(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.~~ ~~(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of~~

	~~*participating households.*~~ ~~*(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.*~~
OSM Conclusion	**Option 1: Defer** (see page 247). **Option 2: Oppose** (see page 248).
Southcentral 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	**Neutral**
Written Public Comments	61 **Support**, 0 **Oppose**

STAFF ANALYSIS
FP17-06/07

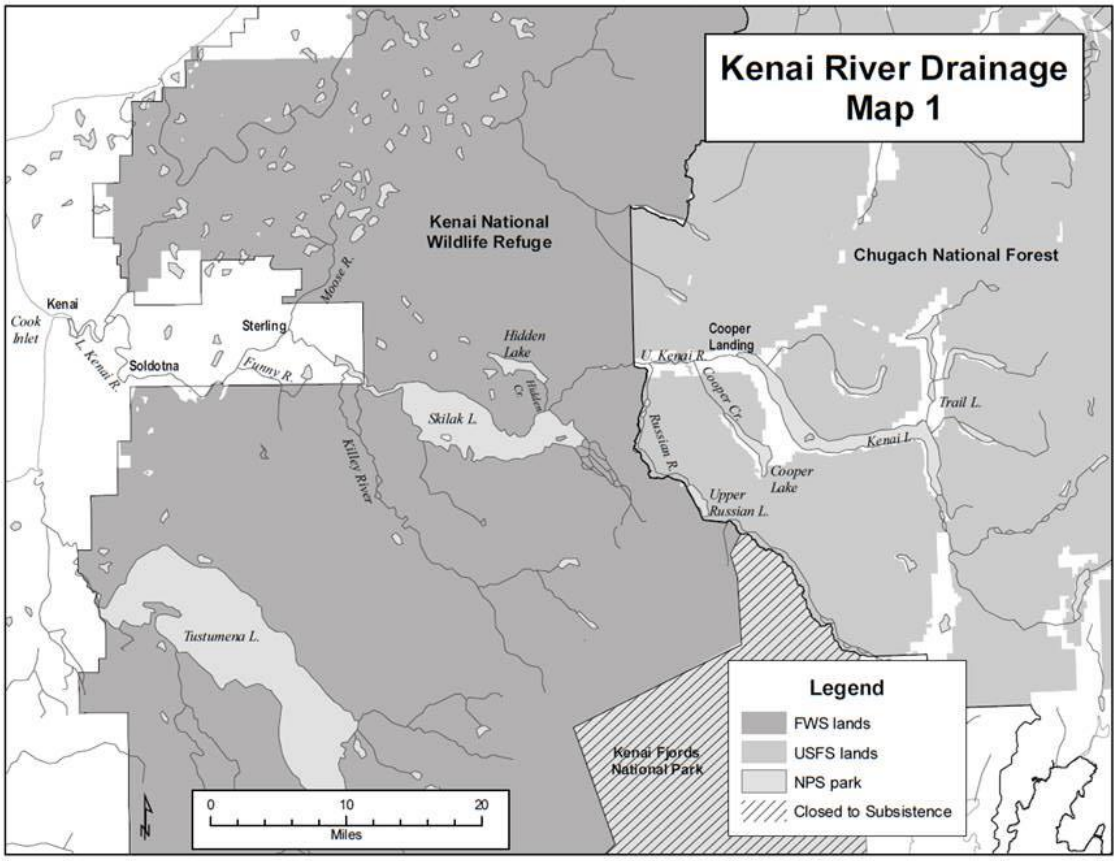
ISSUES

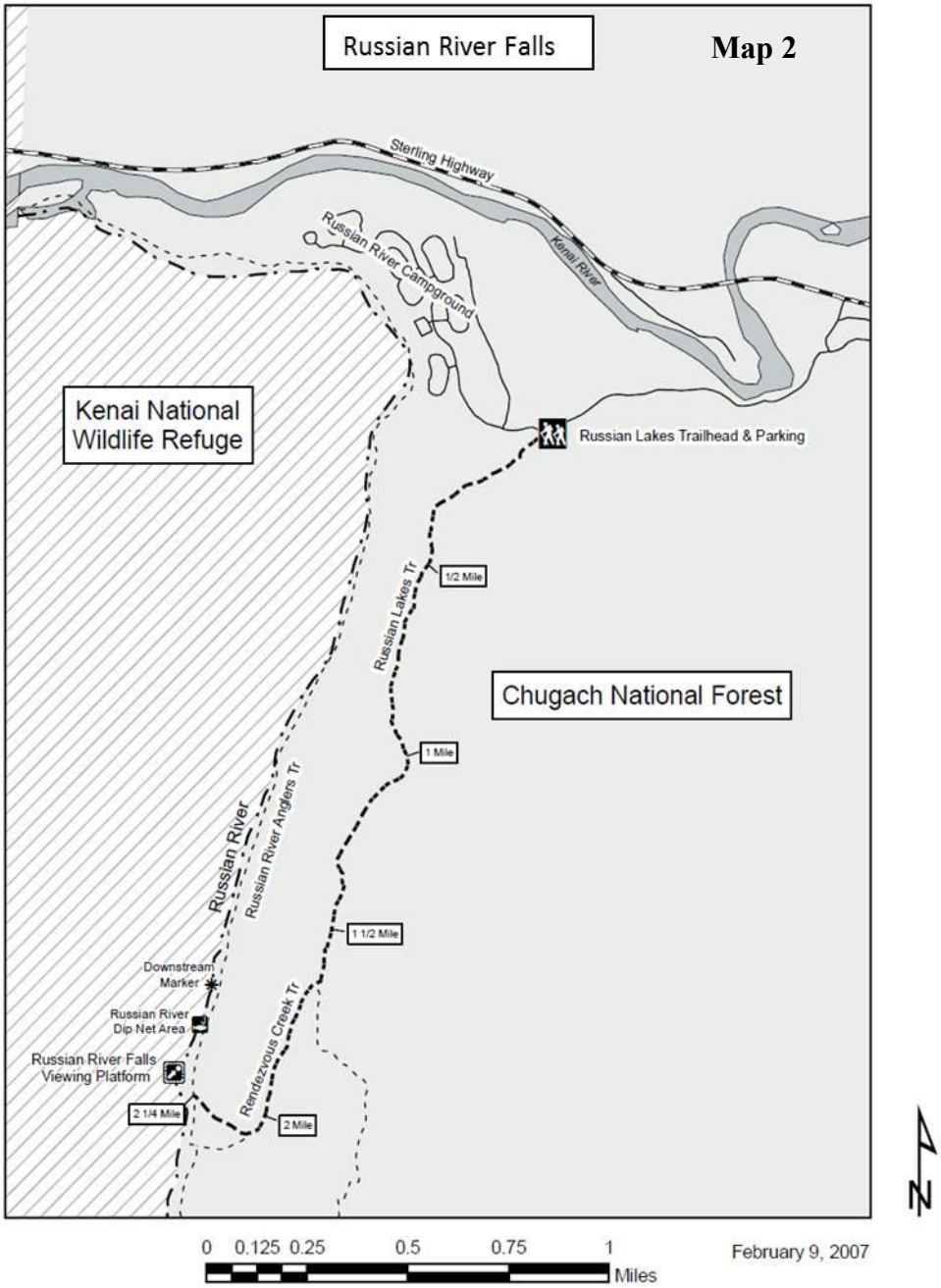
Proposal FP17-06, submitted by the Cooper Landing and Hope Federal Subsistence Community Group, and Proposal FP17-07, jointly submitted by the Assistant Regional Director for Fisheries and Ecological Services, and the Regional Chief of Refuges, U.S. Fish and Wildlife Service, Region 7, Alaska, request the Federal Subsistence Board (Board) to eliminate gillnets as a method for harvest in the waters under Federal subsistence jurisdiction of the Kenai River. The two proposals are being analyzed together because the proponents are requesting the same action from the Board.

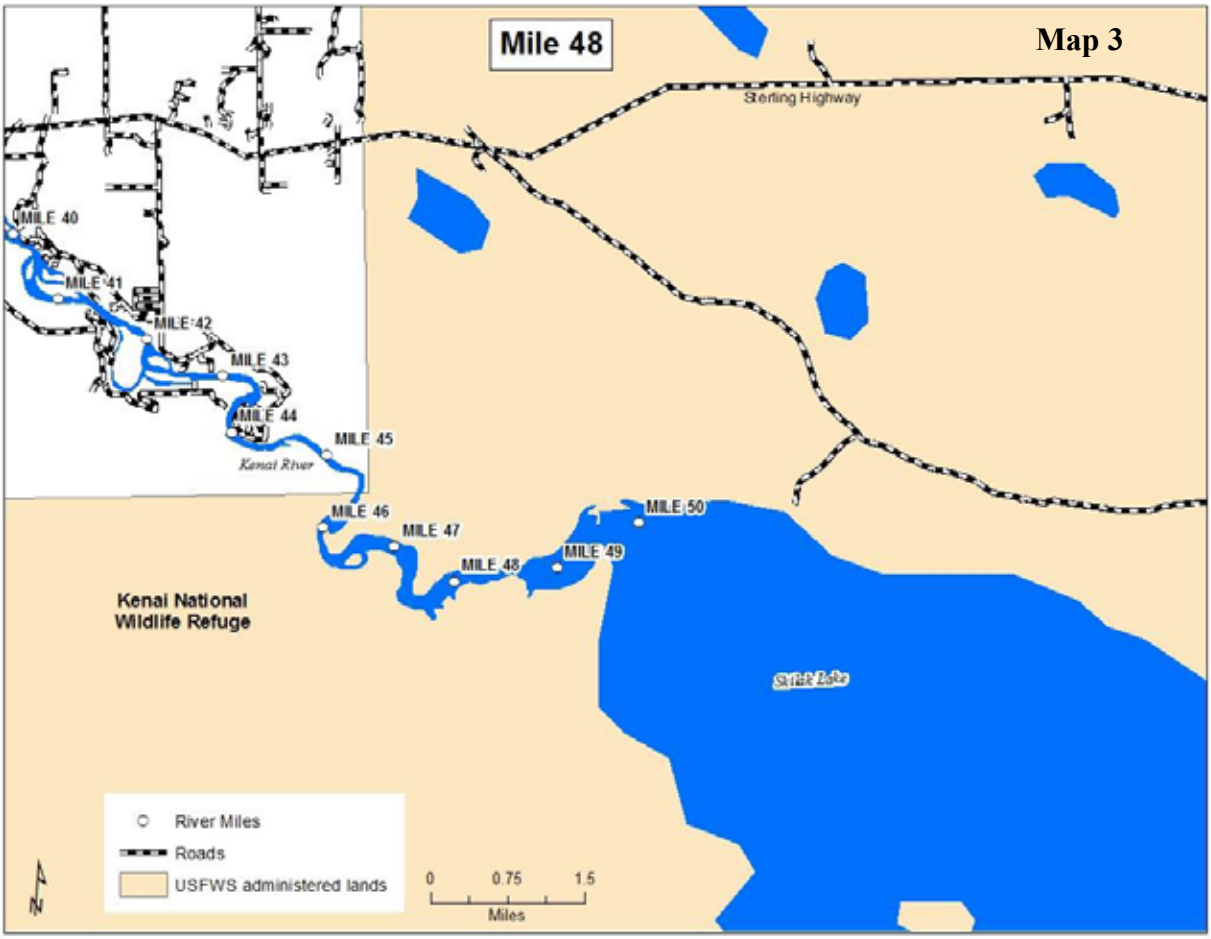
DISCUSSION

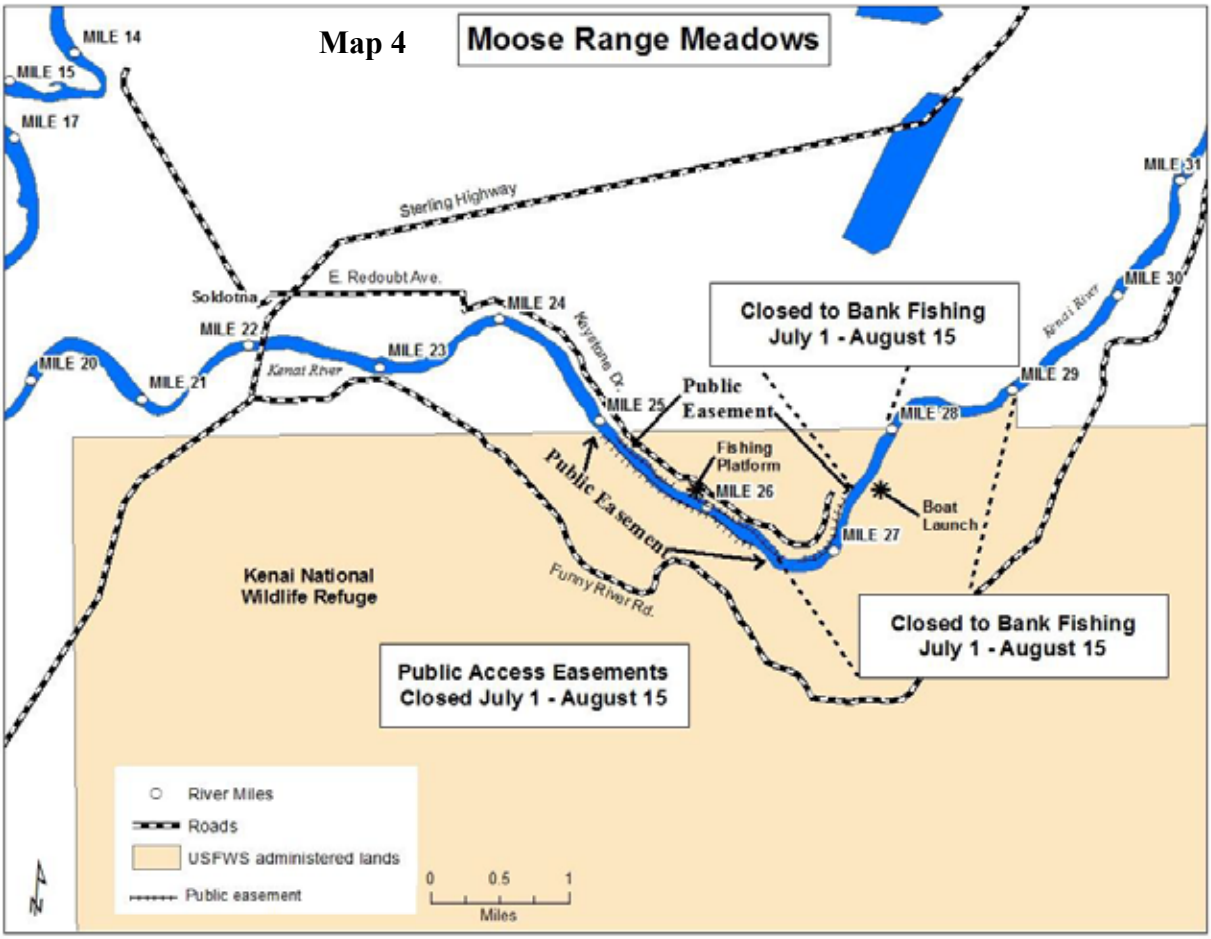
Currently, Federally qualified subsistence users of Cooper Landing, Hope and Ninilchik may harvest salmon with dip nets and rod and reel in the Federal public waters of the Kenai River drainage (**Map 1**). There are three specific areas: a 600-yard section of the Russian River just below the Russian River Falls (**Map 2**), the Kenai River two miles below the outlet to Skilak Lake, from approximately River Mile 45.5 to River Mile 48 (**Map 3**) and the Kenai River in the Moose Range Meadows area, from approximately River Mile 26.5 to River Mile 29 (**Map 4**). They may also harvest salmon in the Kenai River watershed with a rod and reel in all Federal public waters open to sport fishing. Federally qualified subsistence users from Ninilchik may harvest salmon species on the Kenai River utilizing one community gillnet, no more than 10 fathoms in length, under a registration permit issued by the Cook Inlet Federal inseason fisheries manager. Issuance of the registration permit is contingent upon the Federal inseason manager's approval of an operational plan by a Federally qualified subsistence user from Ninilchik or an organization representing the residents of Ninilchik. As of June 15, 2016, the Ninilchik Traditional Council (NTC) has submitted three operation plans to the Cook Inlet Federal inseason fisheries manager, one in 2015 and two in 2016.

The Cooper Landing and Hope Federal Subsistence Community Group (Group) provides six reasons for submission of proposal FP17-06. The Group maintains that the Board's adoption of subsection (J) of the current regulations, which allows Federally qualified subsistence users from Ninilchik to place one community gillnet in the Kenai River:


Kenai River Drainage
Map 1
Kenai National
Wildlife Refuge
Chugach National Forest
Kenai
Cook
Inlet
L. Kenai R.
Soldotna
Sterling
Funny R.
Moose R.
Hidden
Lake
Hidden
Cr.
Skilak L.
Killey River
Cooper
Landing
U. Kenai R.
Cooper Cr.
Russian R.
Upper
Russian L.
Cooper
Lake
Kenai L.
Trail L.
Tustumena L.
Kenai Fjords
National Park
Legend
FWS lands
USFS lands
NPS park
Closed to Subsistence
0
10
20
Miles
N


Russian River Falls
Map 2
Sterling Highway
Russian River Campground
Kenai River
Kenai National Wildlife Refuge
Russian Lakes Trailhead & Parking
Russian Lakes Tr
1/2 Mile
Chugach National Forest
1 Mile
Russian River
Russian River Anglers Tr
1 1/2 Mile
Downstream Marker
Russian River Dip Net Area
Russian River Falls Viewing Platform
Rendezvous Creek Tr
2 1/4 Mile
2 Mile
N
0 0.125 0.25 0.5 0.75 1
Miles
February 9, 2007


Mile 48
Map 3
Sterling Highway
MILE 40
MILE 41
MILE 42
MILE 43
MILE 44
MILE 45
Kenai River
MILE 46
MILE 47
MILE 48
MILE 49
MILE 50
Kenai National
Wildlife Refuge
Skilak Lake
River Miles
Roads
USFWS administered lands
0
0.75
1.5
Miles
N



1. Aggrieves the Federal subsistence priority and rights of Cooper Landing and Hope [Federally-qualified] subsistence users.

2. Is a violation of ANILCA §802 and recognized practices of fish and wildlife management;

3. Is not consistent with sound management principles, and the conservation of healthy populations of fish and wildlife;

4. Is not consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which unit was established, designated, or expanded by or pursuant to Titles II through VII of this Act;

5. Is a violation of ANILCA §815: "Nothing in this title shall be construed as…

   (1) granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife."

6. Is a violation of ANILCA § 801, subsection (4):

   "(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary ... to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents."

The Group contends that, "Any decision by the Board that violates ANILCA and threatens the healthy populations of fish in the Kenai River aggrieves our continued ability to successfully utilize the resource to meet our subsistence needs in a meaningful way. We believe removing section (J) from 50 C.F.R. § 100.27(e)(10) in its entirety and allowing no gillnet in the Kenai River is the only move that will meet both the policy and spirit of ANILCA. This belief is based on our concern about the impact a gillnet will have on the declining stocks of early and late-run Chinook Salmon in the Kenai River system, a concern supported in the OSM Staff analysis of FP-15-10. The Chinook Salmon species in the Kenai River is facing a critical juncture in its vitality and viability."

In a discussion with the two authors of the proposal representing the Group, they reiterated these six reasons and their rationale stated above. They also added that the use of a gillnet by Ninilchik residents has the potential to harvest most, if not all, of the salmon species quotas in the lower river (Moose Range Meadows, the NTC's preferred location) before Cooper Landing and Hope residents even have the chance to fish at the Russian River Falls, their preferred location. It is their contention that elimination of the gillnet fishery would protect the subsistence opportunity for Cooper Landing and Hope residents (Recken and Pearson. 2016. Pers. comm.).

The U.S. Fish and Wildlife Service (Service) provides three reasons for its submission FP17-07, which are the same reasons that the Service opposed FP15-10 in 2015. The Service maintains concerns with implementing a new fishery with a non-selective gear type that has the potential to harvest large numbers of fish in relatively short periods of time, including:

1. Fishing a gillnet in an important spawning area for early and late run Chinook Salmon;

2. The non-selective nature of gillnets as a gear type does not allow for size and species selectivity that is essential to manage and conserve early-run Chinook Salmon, Kenai River Rainbow Trout and Dolly Varden stocks.

3. As adopted by the Board, the current community gillnet fishery regulation for the Kenai River is in conflict with existing regulations, since it authorizes the use of a non-selective gear type, but does not allow harvest of early-run Chinook Salmon and requires release of Rainbow Trout and Dolly Varden larger than 18 inches.

Proposal FP17-10 is related to Proposals FP17-06, FP17-07, and FP17-08, as all will affect the Kenai River community gillnet fishery. The Board's decision on FP17-06,-07, and -08 will have a bearing on FP17-10.

Existing Federal Regulation

Cook Inlet Area

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:

(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, late-run Chinook, Coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. 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), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. 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. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).

(ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles

below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).

(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(2) Fishing seasons are as follows:

(i) For sockeye salmon at all fishery sites: June 15-August 15;

(ii) For late-run Chinook, pink, and coho salmon at both Kenai River fishery sites only: July 16-September 30; and

(iii) Fishing for sockeye, late-run Chinook, coho, or pink salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

(3) Each household may harvest their annual sockeye, late-run Chinook, coho, or pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.

(i) For sockeye salmon—annual total harvest limit of 4,000 (including any retained chum salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;

(ii) For late-run Chinook salmon—annual total harvest limit of 1,000; annual household limits of 10 for each permit holder and 2 additional for each household member;

(iii) For coho salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household member; and

(iv)For pink salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.

(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the

dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (e)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager by the due date listed on the permit. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (e)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) 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:

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

(2) For early-run Chinook salmon less than 46 inches or 55 inches or longer, daily harvest and possession limits are two per day and two in possession.

(3) For late-run Chinook salmon 20 inches and longer, daily harvest and possession limits are two per day and two in possession.

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

(5) For other salmon 16 inches and longer, the combined daily harvest and possession limits are six per day and six in possession, of which no more than four per day and four in possession may be coho salmon, except for the Sanctuary Area and Russian River, for which no more than two per day and two in possession may be coho salmon.

(F) For Federally managed waters of the Kenai River and its tributaries below Skilak Lake outlet at river mile 50, residents of Cooper Landing, Hope, and Ninilchik may take resident fish species including lake trout, rainbow trout, and Dolly Varden/Arctic char with jigging gear through the ice or rod and reel gear in open waters. Resident fish species harvested in the Kenai River drainage under the conditions of a Federal subsistence permit must be marked by removal of the dorsal fin immediately after harvest and recorded on the permit prior to leaving the fishing site. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these resident species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.54), except for the following harvest and possession limits:

(1) For lake trout 20 inches or longer, daily harvest and possession limits are four per day and four in possession. For fish less than 20 inches, daily harvest and possession limits are 15 per day and 15 in possession.

(2) In flowing waters, daily harvest and possession limits for Dolly Varden/Arctic char less than 18 inches in length are one per day and one in possession. In lakes and ponds, daily harvest and possession limits are two per day and two in possession. Only one of these fish can be 20 inches or longer.

(3) In flowing waters, daily harvest and possession limits for rainbow/steelhead trout are one per day and one in possession and must be less than 18 inches in length. In lakes and ponds, daily harvest and possession limits are two per day and two in possession of which only one fish 20 inches or longer may be harvested daily.

(J) Residents of Ninilchik may harvest sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released[1]*.*

(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its, use, and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:

(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik.

(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.

(3) The gillnet owner (organization) may operate the net for subsistence purposes

[1] The regulations regarding Chinook Salmon in section (D) still apply to the regulations in section (J). The harvest limit listed in (D) of 1,000 fish is specific to late-run Chinook Salmon; there is no provision in either (D) or (J) to harvest early-run Chinook Salmon. Therefore, early-run Chinook Salmon, Rainbow Trout 18 inches or longer, and Dolly Varden 18 inches or longer, are not allowed to be harvested in the gillnet fishery authorized in section (J); these fish must be "released". While the regulation does not specifically say so , the phrase "must be released" usually connotes both "immediately" and "unharmed", as the more quickly a fish is released after being caught, the greater its chance of being unharmed, and thus, the greater its chance of survey, recovery, and resumption of normal behavior and activities.

on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i) Identifies a person who will be responsible for fishing the gillnet;

(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.

(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.

(6*) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action*

Kenai National Wildlife Refuge

There are regulations specific to the Kenai National Wildlife Refuge pertinent to the analysis:

50 CFR 36.39(i)

(7) Fishing. We allow fishing on the refuge in accordance with State and Federal laws, and consistent with the following provisions:

(ii) Designated areas along the Kenai River at the two Moose Range Meadows public fishing facilities along Keystone Drive are closed to public access and use. At these facilities, we allow fishing only from the fishing platforms and by wading in the Kenai River. To access the river, you must enter and exit from the stairways attached to the fishing platforms. We prohibit fishing from, walking or placing belongings on, or otherwise occupying, designated areas along the river in these areas.

(12) Area-specific regulations for the Moose Range Meadows Subdivision non-development and public use easements.

(i) Where the refuge administers two variable width, non-development easements held by the United States and overlaying private lands within the Moose Range Meadows Subdivision on either shore of the Kenai River between river miles 25.1 and 28.1, you may not erect any building or structure of any kind; remove or disturb gravel, topsoil, peat, or organic material; remove or disturb any tree, shrub, or plant material of any kind; start a fire; or use a motorized vehicle of any kind (except a wheelchair occupied by a person with a disability), unless such use is authorized under the terms and conditions of a special use

permit (FWS Form 3-1383-G) issued by the Refuge Manager.

(ii) Where the refuge administers two 25-foot-wide public use easements held by the United States and overlaying private lands within the Moose Range Meadows Subdivision on either shore of the Kenai River between river miles 25.1 and 28.1, we allow public entry subject to applicable Federal regulations and the following provisions:

(A) You may walk upon or along, fish from, or launch or beach a boat upon an area 25 feet upland of ordinary high water, provided that no vehicles (except wheelchairs) are used. We prohibit non-emergency camping, structure construction, and brush or tree cutting within the easements.

(B) From July 1 to August 15, you may not use or access any portion of the 25-foot-wide public easements or the three designated public easement trails located parallel to the Homer Electric Association Right-of-Way from Funny River Road and Keystone Drive to the downstream limits of the public use easements. Maps depicting the seasonal closure are available from Refuge Headquarters.

Proposed Federal Regulation

Cook Inlet Area

§___.27(i)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:

~~*(J) Residents of Ninilchik may harvest sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.*~~

~~*(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.*~~

~~*(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its, use, and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:*~~

~~*(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;*~~

~~*(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.*~~

~~*(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting subsistence fishing permit that:*~~

~~*(i) Identifies a person who will be responsible for fishing the gillnet;*~~

~~*(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.*~~

~~*(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.*~~

~~*(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.*~~

~~*(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.*~~

Existing State Regulations

The management of Kenai River fisheries is conducted through several fisheries management plans, as outlined in Regulatory History section below. The State of Alaska manages salmon fisheries statewide based on the principles and criteria listed in the State's Policy for the Management of Sustainable Salmon Fisheries, 5AAC 39.222 (See **Appendix A**).

In addition, the following State regulation to protect riparian habitat in the Moose Range Meadows area, by prohibiting or restricting sport fishing at certain times of the year, is relevant to the proposals under analysis:

<u>5 AAC 56.065. Riparian Habitat Fishery Management Plan</u>

(d) From July 1 through August 15, the following Kenai River riparian habitats are closed to all fishing, except fishing from a boat that is located more than 10 feet from shore and not connected to the shore or

any riparian habitat:

> *(15) on the south bank of the Kenai River, between ADF&G regulatory markers located at river mile 26.4 and river mile 30.0;*
>
> *(16) on the north bank of the Kenai River from an ADF&G regulatory marker located at the upstream edge of the boat ramp at the end of Keystone Drive at approximately river mile 27.3, upstream to ADF&G regulatory markers located at the Kenai National Wildlife Refuge boundary delineated by the power line at river mile 28.0;*
>
> *(17) in the Caymas Subdivision, on the north bank of the Kenai River, between ADF&G regulatory markers located at river mile 31.5 and 32.5;*

(e) For purposes of this section, "riparian habitat" means all areas within 10 feet in either direction from the Kenai River waterline.

Extent of Federal Public Water

Federal public waters are defined and described under 36 CFR 242.3 and 50 CFR100.3. For the Kenai River, Federal public waters under consideration include all waters of the Kenai River within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge and Chugach National Forest (**Map 1**). These include 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 National Wildlife Refuge and the Chugach National Forest.

Regulatory History

<u>Pre- and Early Statehood Fisheries</u>

Prior to 1952, freshwater streams in the Kenai Peninsula were open to subsistence fishing, but poorly managed commercial fisheries, a growing local and Alaska State resident population, and increased user pressure decimated salmon runs. 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).

<u>Contemporary State Fisheries</u>

Overall, the State of Alaska manages commercial and sport salmon fisheries statewide based on the

principles and criteria listed in the State's Policy for the management of sustainable salmon fisheries, 5AAC 39.222 (**Appendix A**). A State regulatory management plan for Upper Cook Inlet salmon (5 AAC 21.363) provides the Alaska Board of Fisheries guiding principles and provisions for adopting management plans for specific stocks. 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 Kenai River fisheries are complex and intensively managed by the State of Alaska. There are five management plans that apply to Kenai River salmon stocks:

Upper Cook Inlet Salmon Management Plan (5 AAC 21.363)
Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 56.070)
Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359)
Kenai River Late-Run Sockeye Salmon Management Plan (5 AAC 21.360)
Kenai River Coho Salmon Management Plan (5 AAC 56.080)

These plans provide goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and plans for allocation between competing fisheries. Most of the initial Federal subsistence fishing regulations for the Kenai River that were put in place during the period of 2006 – 2008, were based on these plans to mirror State of Alaska regulations, conservation efforts, and management.

The State also has a regulatory management plan for Upper Cook Inlet personal use salmon fisheries (5 AAC 77.540). This plan established four personal use fisheries in Cook Inlet: Kasilof River dip net, Kasilof River set gillnet, Kenai River dip net, and Fish Creek dip net. Unlike subsistence fisheries, personal use fisheries do not have a priority over other existing uses. Personal use fisheries are open to all residents of Alaska, require a household permit and sport fishing license, occur in marine and intertidal waters, and are well downstream of Federal public waters in the Kenai River drainage. These fisheries target Sockeye Salmon, the species of greatest abundance and for which the best stock assessment information is available. Annual harvest limits are 25 salmon for the head of each household and 10 salmon for each additional household member. The limit is combined for all four fisheries. Incidentally caught Coho, Pink, and Chum Salmon may be retained as part of the annual limit. Each household is limited to one Chinook Salmon in the Kenai River dip net fishery.

Finally, the State administers up to twelve educational fisheries each year in the Cook Inlet area under the provisions of 5 AAC 93.200 – 93.235 (Nelson et al. 1999, Fall et al. 2004). Around half of these educational fisheries occur in marine waters near the mouths of Kenai Peninsula Rivers. The purpose of educational fisheries is to allow groups to practice traditional, contemporary, or experimental methods for locating, harvesting, or processing fishery resources. Educational fisheries like personal use fisheries, but unlike subsistence fisheries, do not have statutory priority over other fisheries. Therefore, during times of resource shortages, educational fisheries could be restricted before or at the same time as commercial, sport and

personal use fisheries are restricted.

From 2010 to 2016, numerous State emergency orders were put in place to protect Chinook salmon in the Kenai River due to conservation concerns (**Table 1**)

Table 1. Emergency Orders issued by the Alaska Department of Fish and Game for Chinook Salmon in the Kenai River drainage between 2010 and 2016

Alaska Department of Fish and Game Chinook Salmon Emergency Orders in the Kenai River				
Year	Number	Start Date	End Date	Action
2010	2-KS-1-12-10	6/5/2010	7/14/2010	Partial season closure for sport fishery
2010	2-KS-1-16-10	6/12/2010	7/14/2010	Restricted reopening for sport fishery
2010	2-KS-1-19-10	6/15/2010	7/31/2010	Reopen back to standard sport fishing regulations
2011	2-KS-1-17-11	6/29/2011	7/14/2011	Restrict sport fishery
2011	2-KS-1-20-11	7/15/2011	7/31/2011	Continue duration of restricted sport fishery
2012	2-KS-1-11-12	6/15/2012	7/14/2012	Restrict sport fishery
2013	2-KS-1-11-13	5/16/2013	7/14/2013	Restrict sport fishery
2013	2-KS-1-22-13	6/20/2013	7/14/2013	Close sport fishery in some areas, restrict in others
2013	2-KS-1-24-13	7/1/2013	7/31/2013	Restrict sport fishery
2013	2-KS-1-34-13	7/10/2013	7/31/2013	Prohibit retention of Chinook Salmon in personal use fishery
2013	2-KS-1-36-13	7/15/2013	7/31/2013	Close sport fishery
2013	2-KS-1-43-13	7/25/2013	7/31/2013	Allow harvest of fish less than 20 inches or greater than 55 inches
2013	2-KS-1-45-13	7/28/2013	7/31/2013	Close sport fishery
2013	2-KS-1-46-13	8/1/2013	8/15/2013	Prohibit use of bait and limit gear in the sport fishery
2014	2-KS-1-04-14	5/1/2014	7/31/2014	Close sport fishery for early-run
2014	2-KS-1-26-14	7/1/2014	7/31/2014	Prohibit use of bait in the sport fishery
2014	2-KS-1-27-14	7/10/2014	7/31/2014	Prohibit retention of Chinook Salmon in personal use fishery
2014	2-KS-1-40-14	7/19/2014	7/31/2014	Restrict sport fishery to unbaited single barbless hook, no retention
2014	2-KS-1-42-14	7/26/2014	7/31/2014	Close sport fishery
2015	2-KS-1-05-15	5/1/2015	7/31/2015	Close sport fishery for early-run
2015	2-KS-1-35-15	7/1/2015	7/31/2015	Prohibit use of bait in the sport fishery
2015	2-KS-1-46-15	7/25/2015	7/31/2015	Restore use of bait in sport fishery, no Chinook retention
2016	2-KS-1-03-16	5/1/2016	7/31/2016	Close sport fishery for early-run
2016	2-KS-1-19-16	6/18/2016	6/30/2016	Allow harvest in sport fishery from mouth of river to Slikok Creek
2016	2-KS-1-24-16	7/1/2016	7/31/2016	Prohibit use of bait in the sport fishery
2016	2-KS-1-28-16	7/1/2016	7/31/2016	Maintain bait prohibition in the sport fishery
2016	2-KS-1-33-16	7/9/2016	7/31/2016	Restore use of bait in the sport fishery

Federal Subsistence Fisheries Regulations in the Cook Inlet Area

In 2002, Federal subsistence regulations for harvest in the Cook Inlet Area were established for salmon, trout, and Dolly Varden. A Federal subsistence permit was required and seasons, harvest and possession limits, and methods and means for take were the same as those in Alaska sport fishing regulations. This

fishery was established as an interim measure to provide some subsistence opportunity in the Cook Inlet Area for Federally qualified rural residents. Initially, there were no customary and traditional use determinations for salmon, trout and Dolly Varden in Cook Inlet; so all rural residents of Alaska could harvest under Federal regulations.

In January 2006, the Federal Subsistence Board made customary and traditional use determinations for Hope and Cooper Landing residents for all fish in the Kenai River Area, and for Ninilchik residents for all fish within the Kasilof River drainage within the Kenai National Wildlife Refuge. In November 2010, the Board made a customary and traditional use determination for Ninilchik residents for all fish in the Kenai River Area within the Kenai National Wildlife Refuge and the Chugach National Forest.

For the 2007 regulatory cycle, two additional steps were included in the analysis and review process for regulatory proposals; 1) the formation of a stakeholder subcommittee of the Southcentral Council, which met twice in Soldotna in February 2007, to review the analyses and suggest changes, and 2) a review by the NTC, the proponent of some of the proposals, to assess, and provide feedback on, the changes suggested by the subcommittee, and to suggest other changes. Both of these steps took place prior to the Southcentral Council's March 2007 meeting. Several suggested changes which resulted from these extra steps, were incorporated into the analyses as modifications to the proposed regulations and presented to the Council and, ultimately, the Board (OSM 2007).

At the time, the Board typically held public meetings twice a year to make decisions on proposals to change Federal subsistence regulations throughout the State; once in the Spring (April or May) for wildlife regulations and once in the Winter (December or January) for fisheries proposals. In May 2007, the Board held a third public meeting solely to hear public testimony on, deliberate and make decisions for the Kenai Peninsula fisheries proposals of the 2007 regulatory cycle. The meeting lasted three days (FSB. 2007a).

During its May 2007 meeting, the Board adopted proposals that established dip net/rod and reel salmon fisheries on the Kasilof and Kenai Rivers; increased previously established harvest, possession, and annual limits for salmon and selected resident species for existing rod and reel fisheries on the Kasilof and Kenai River drainages; and allowed use of up to two single or treble hooks and bait for rod and reel fishing during specified dates for both systems. Sockeye Salmon annual harvest limits were set at 4,000 fish, with an annual household limit of 25 for each permit holder, and an additional 5 for each household member; late-run Chinook Salmon annual harvest limits were set at 1,000 fish, with an annual household limit of 10 for each permit holder, and an additional 2 fish per each household member; Coho Salmon annual harvest limits were set at 3,000 fish, with an additional household limit of 20 for each permit holder, with an additional 5 fish for each household member; and Pink Salmon annual harvest limits were set at 2,000 fish, with an annual household limit of 15 for each permit holder, and an additional 5 per each household member. Any Rainbow Trout or Dolly Varden 18 inches or greater in length were required to be released alive.

Additionally, during the 2007 regulatory cycle, there were several proposals that included requests for the use of gillnets in the Kenai River drainage. These included Proposals FP07-27B and C (by NTC) and FP07-29 (by Mr. Robert Gibson of Cooper Landing). FP07-27B and C requested a community set gillnet

fishery for Chinook, Sockeye, and Pink Salmon in the Kasilof and Kenai Rivers and a community set gillnet fishery for Coho Salmon in the Kenai River. FP07-29 requested that gillnets with different mesh sizes be used to harvest Sockeye Salmon, Coho Salmon, Pink Salmon, Rainbow Trout, Dolly Varden, Lake Trout, and whitefish species in several lakes in the Kenai River drainage. The recommendation of the Southcentral Council was to move forward with only the dip net and rod and reel salmon fisheries described above. Justification for this recommendation was that a dip net fishery at Moose Range Meadows provides additional subsistence opportunity and that limiting this fishery to dip nets from boats addresses habitat and private property concerns in this area. The Southcentral Council also stated that allowing incidental harvest of Rainbow Trout and Dolly Varden/Arctic Char less than 18 inches in dip net fisheries below Skilak Lake is consistent with conservation practices and provides a reasonable alternative to expanded harvest opportunity in the rod and reel fishery. Lastly, the Southcentral Council stated that providing up to two baited hooks in the rod and reel fishery below Skilak Lake from January 1 to August 31 provides an additional opportunity for Chinook and Coho Salmon, and is consistent with conservation practices for these species.

During the 2008 regulatory cycle, the NTC submitted Proposal FP08-08 to allow the salmon dip net fishery to occur from the shore (river bank), as well as from boats, within the Federal public waters of the Kenai River in the Moose Range Meadows area. The Southcentral Council voted 5-4 to support the proposal, after a lengthy discussion during its fall 2007 meeting. The Southcentral Council decided that allowing subsistence dip net fishing from shore as well as from a boat would provide more of a subsistence preference in this area of the Kenai River. The Southcentral Council also stated that limiting the dip net fishery at Moose Range Meadows to boats would limit participation by Federally qualified subsistence users without access to a boat and that while there are habitat and private property concerns in the area, it should be possible to allow some subsistence fishing from shore on Federal public lands that can be accessed without the use of a boat. During the Board's December 2007 meeting, some Board members expressed concerns about allowing dip netting from the shore because this area is prime Chinook Salmon rearing habitat with bank closures in place for habitat protection, that the area was not a safe place to use dip nets, and that opening the area to fishing from the shore would not be consistent with recognized principles of fish and wildlife management. Other Board members pointed out that adoption of the proposal would provide a "meaningful subsistence preference". A motion was put forth to support Proposal FP08-08. The motion failed on a three/three tie vote (FSB. 2007b).

Also during the 2008 cycle, the Southcentral Council submitted Proposal FP08-09 to establish a temporary community fish wheel on both the Kenai and Kasilof Rivers for residents of Ninilchik, Hope, and Cooper Landing. The Council contended that the fish wheels would provide a more effective means for Federally qualified subsistence users to harvest salmon. The Council requested the establishment of fish wheels as a gear type be temporary to evaluate the feasibility of operating this type of gear. The Board, at its December 2007 meeting, adopted the proposal, with modification, to allow fish wheels to be classified as a gear type, but only in the Kasilof River. The Board felt that there were too many logistical issues to be dealt with on the Kenai River, especially with three communities having the possibility of running a single fish wheel. The Board specified that only one fish wheel with a live box would be allowed in the upper mainstem of the Kasilof River. A permit would be required to use the fish wheel and that an operational plan must be submitted to and approved by the Federal inseason manager, before the permit would be

issued. Individuals operating the fish wheel would need to have a Federal subsistence fishing permit and all harvest limits on the permit would apply to the fish wheel. Salmon harvested by the fish wheel were included as part of each household's annual limit and all fish harvested were to be reported to the inseason manager with 72 hours of leaving the fishing location. The Board, at its January 2013 meeting, supported FP13-15 to remove the expiration date for the community fish wheel salmon fishery on the Kasilof River allowing continued operation of the fish wheel (FSB 2013).

For the 2009 regulatory cycle, the NTC submitted Proposal FP09-08, again requesting the Board to allow the salmon dip net fishery to occur from the shore (river bank), as well as from boats, within the Federal public waters of the Kenai River in the Moose Range Meadows area. Proposal FP09-08 was put on the Board's consensus agenda due to opposition of the proposal by both the Southcentral Council and the Alaska Department of Fish and Game (ADF&G). The Council's stated reason for opposing FP09-08 was that "no Federal lands are available to allow fishing from the shore without serious damage to the river bank." The Board adopted the consensus agenda without discussion. As a result, Proposal FP09-08 failed (FSB 2009).

For the 2015 regulatory cycle, Proposal FP15-10 was submitted by NTC to establish a community gillnet fishery in the Kenai River in order to provide additional subsistence harvest opportunities for residents of Ninilchik. The proponent requested the use of a single community gillnet that was 10 fathoms or less in length for the harvest of salmon. Similar to the fish wheel regulations, an operational plan would be required to be developed by a local organization on behalf of Ninilchik residents, and approved by the Federal in-season manager before a fishing permit would be authorized. The operational plan would include deployment locations, fishing times, and a methodology for distributing the harvest. All salmon taken in the Kenai River community gillnet fishery would be included as part of the existing annual household limit for Ninilchik residents, and fishing for salmon would be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species was reached or for other regulatory requirements. Proposal FP15-10 was adopted at the Board's January 2015 public meeting (FSB 2015).

From 2010 to 2015, numerous Federal special actions were put in place to protect Chinook salmon in the Kenai River due to conservation concerns (**Table 2**)

Table 2. Federal special actions for Chinook Salmon in Federal public waters of the Kenai River drainage between 2010 and 2015

Chinook Salmon Federal Special Actions for Federal public waters of the Kenai River				
Year	Number	Start Date	End Date	Action
2010	10-KS-01-10	6/4/2010	7/14/2010	Close to subsistence fishing for early-run
2010	10-KS-02-10	6/15/2010	7/14/2010	Reopen under restricted subsistence harvest guidelines for early-run
2010	10-KS-03-10	6/15/2010	8/31/2010	Open to subsistence fishing under normal regulations
2011	10-KS-02-11	7/15/2011	7/31/2011	Restrict harvest of early-run
2012	10-KS-01-12	6/15/2012	7/14/2012	Restrict harvest of early-run
2012	10-KS-02-12	6/22/2012	7/14/2012	Close to subsistence fishing for early-run
2012	10-KS-03-12	7/16/2012	7/31/2012	Close to subsistence fishing for late-run

Chinook Salmon Federal Special Actions for Federal public waters of the Kenai River				
2013	10-KS-02-13	6/20/2013	7/14/2013	Close to subsistence fishing for Chinook Salmon
2013	10-KS-03-13	7/15/2013	8/15/2013	Extend closure of subsistence fishing for Chinook Salmon
2014	10-KS-01-14	6/19/2014	7/14/2014	Close to subsistence fishing for Chinook Salmon
2014	10-KS-02-14	7/15/2014	8/17/2014	Extend closure of subsistence fishing for Chinook Salmon
2015	10-KS-01-15	6/18/2015	8/15/2015	Close to subsistence fishing for early-run

Current Events Involving the Gillnet Fishery

The date of publication of the regulation which resulted from the Board's adoption of proposal FP15-10 was May 18, 2015. Over 700 timely requests for reconsideration (RFRs) were filed with the Board, all requesting the Board to reverse or rescind its decision on FP15-10. The proponents of FP17-06 and FP17-07 were among the entities and individuals that filed a timely RFR. The RFR process is ongoing.

In January 2015, the Board adopted proposal FP15-10 from the NTC to allow Ninilchik residents to use a community gillnet in the Federal public waters of the Kenai River. Both the U.S. Fish and Wildlife Service and the Office of Subsistence Management opposed the proposal based on conservation concerns for certain species (FSB 2015). To address these concerns, the Board required the NTC to submit an operational plan to demonstrate how the fishery would be prosecuted with these conservations concerns being addressed. The operational plan was submitted to the Cook Inlet Federal in-season manager for approval. The manager did not approve NTC's plan due to conservation concerns and regulatory conflicts. On October 22, 2015, NTC filed suit to compel the agency to approve an operational plan. *Ninilchik Traditional Council v. Towarak et al.,* Case No. 3:15-cv-0205 JWS (D. Alaska).

On June 28, 2016, the NTC submitted a Special Action Request (FSA16-02) to the Board to implement the subsistence gillnet fishery for the Kenai River. On July 14, 2016, NTC amended FSA16-02 to reflect that portions of the initial request were no longer valid due to the passage of time.

On July 27, 2016, the Board approved Emergency Special Action Request FSA16-02 with modification, providing for the implementation of an experimental Kenai River community gillnet fishery for residents of Ninilchik. The Board designated this fishery as experimental to see if a set gillnet could be used in certain locations on the Kenai River with minimal impact to Chinook Salmon, Rainbow Trout and Dolly Varden. The Board stipulated that the fishery may be conducted in the Moose Range Meadows area of the Kenai National Wildlife Refuge, with a gillnet up to 10 fathom (60') in length with 5 ¼" mesh, anchored to the bank. The fishery allowed for the retention of up to 50 Chinook Salmon, all other salmon within current Federal regulation limits, and any incidentally caught Rainbow Trout and Dolly Varden. Genetic samples were to be collected from all Chinook Salmon. The State bank closures, as adopted into Federal subsistence regulations, were temporarily removed to allow for the Kenai River community gillnet fishery; however, Kenai National Wildlife Refuge regulations at 50 CFR 36.39(i) remained in effect and prohibited access within an area 25 feet upland of ordinary high water on either shore of the Kenai River between river miles 25.1 and 28.1.

At the conclusion of the 2016 experimental community gillnet fishery on August 15, the Ninilchik

community has caught 755 Sockeye Salmon, 7 Pink Salmon, 1 Chinook Salmon, 12 Coho Salmon and 2 Dolly Varden, while harvesting 723 Sockeye Salmon, 6 Pink Salmon, 1 Chinook Salmon, and 12 Coho Salmon. They also have released 29 Sockeye Salmon, 1 Pink Salmon, and 2 Dolly Varden. No Rainbow Trout or Steelhead were caught, harvested, or released during the experimental community gillnet fishery.

Biological Background and Harvest History

All Pacific salmon species spawn within the Kenai River drainage, and the runs are harvested in State commercial, sport, personal use, and educational fisheries, as well as Federal subsistence fisheries. Federal subsistence harvest history will be discussed after the description of State harvest under these various State run fisheries. The State's Upper Cook Inlet Salmon Management Plan (5 AAC 21.363) establishes long-term direction for the management of Upper Cook Inlet salmon stocks. It provides mandatory criteria that the Alaska Board of Fisheries must consider when adopting management plans for specific fish stocks, and establishes a set of guiding principles for the adoption of regulations governing salmon fisheries. The plan focuses the commercial fisheries take on late-run Sockeye Salmon, while early-run Sockeye, early- and late-run Chinook, and Coho Salmon runs are primarily managed for sport fisheries. Considerable information has been compiled on abundance and distribution of Sockeye, Chinook, and Coho Salmon runs, but little information is available on either Pink or Chum Salmon runs. Spawning escapement goals have been set for Sockeye and Chinook Salmon runs, and sustainable harvest levels have been estimated for Sockeye, Chinook, and Coho Salmon.

Early-Run Sockeye Salmon

Most early-run Sockeye Salmon spawn within the Russian River. The State's Russian River Sockeye Salmon Management Plan (5 AAC 57.150) establishes escapement objectives and provides guidelines for the State management of State fisheries harvesting this run. The primary harvest of this run occurs within the sport fishery, and the State manages other fisheries to minimize the harvest of early run sockeye. The biological escapement goal range set by this plan is 22,000 to 42,000 early-run Sockeye Salmon.

Sport fishing for early-run Sockeye Salmon primarily occurs within the Russian River area. This fishery includes the lower Russian River up to a marker 600 yards below Russian River Falls, and the mainstem Kenai River from the confluence down to the power line crossing. The allowable gear in this fishery is restricted to fly fishing only, and the fishery opens June 11 at the conclusion of the spawning season closure for Rainbow Trout. Bag and possession limits for Sockeye Salmon throughout the Kenai River drainage are 3 per day and 6 in possession. Sport fishery harvests of early-run Russian River Sockeye Salmon during 2003–2012, the most recent 10-year period for which data are available, have ranged from 15,231 to 59,097 fish with an average harvest of 34,375 fish (Begich et. al. 2013). On average, the sport fishery harvested about 46% of the early-run that enters the Russian River area during this period.

The Kenaitze Indian Tribe educational fishery currently consists of one set gillnet that is fished May 1 – June 30 in marine waters just south of the Kenai River mouth, and two set gillnets that are fished July 1– November 30 in marine waters just south of Kenai River mouth. The net can be fished from 1 May through 30 November, and there is an annual harvest limit of 10,000 salmon, as well as species and stock restrictions. Annual harvests of early-run Russian River Sockeye Salmon during 2004–2013, the most recent 10-year

period, have ranged from 275 to 2,374 Sockeye Salmon, with an average of 1,405 (Begich et. al. 2013).

Escapement into the Russian River system is estimated using a weir below the outlet of Upper Russian Lake. Early-run Sockeye Salmon enter the Kenai River from about mid-May through mid-July. During 2004–2013, spawning escapements have ranged from 24,115 to 80,524 Sockeye Salmon, with an average escapement of 41,656 (Begich et. al. 2013).

Late-Run Sockeye Salmon

Late-run Sockeye Salmon is intensively managed and utilized Kenai River salmon resource. The State's Kenai River Late-run Sockeye Salmon Management Plan (5 AAC 21.360) and Russian River Sockeye Salmon Management Plan (5 AAC 57.150) establish escapement objectives and provides guidelines for the management of all fisheries harvesting the late run. The optimum escapement goal range for the total drainage, including the Russian River system, is set at 700,000 to 1,400,000 late-run Sockeye Salmon, which is estimated with sonar equipment installed in the lower Kenai River. The sustainable escapement goal range for the Russian River is set at 30,000–110,000 late-run Sockeye Salmon, which is monitored with a weir. While primary harvest of the late-run occurs within the commercial fishery, the State manages the commercial fishery to provide for harvests within other fisheries and to achieve spawning goals within the Kenai River system.

The harvest of late-run Sockeye Salmon is monitored in all existing commercial, personal use, sport, and educational fisheries (Begich et. al. 2013). Commercial fisheries are conducted in the marine waters of Cook Inlet using both drift and set gillnets. During 2003–2012, the commercial harvest of Kenai River bound Sockeye Salmon has ranged from 204,579 to 5,277,995 late-run Sockeye Salmon, with an average of 3,445,684. About half of the commercial harvest is generally taken within a few days centered on July 20 (Begich et. al. 2013).

A personal use dip net fishery occurs at the mouth of the Kenai River and extends upstream as far as the Warren Ames Bridge. Dip nets can be fished from boats in the section of river from the City Dock upstream to the Warren Ames Bridge. To target effort on late-run Sockeye Salmon, and reduce harvests of late-run Chinook Salmon and Coho Salmon, this dip net fishery is only open July 10–31. All Alaska residents may participate, permits are required, and the annual household limit is 25 salmon for the permit holder and 10 additional salmon for each household member. From 2009 to 2013, about 25,000 to 30,000 household days of effort are for all fisheries each year. Annual late-run Sockeye Salmon harvests have ranged from 127,630 to 537,765 fish during 2004–2012, with an annual average of 333,960. The three communities of Cooper Landing, Hope, and Ninilchik all participate in the State personal use fisheries. From 2010 to 2013, the average number of households with a personal use fishery permit was 22 for Cooper Landing, 16 for Hope, and 166 for Ninilchik. The average number of Sockeye harvested in each community during this time was 272 fish for Cooper Landing, 285 fish for Hope, and 2,876 fish for Ninilchik (**Table 3** & **Table 4**).

The Kenaitze Indian Tribe educational fishery annual harvests have ranged from 2,246 to 5,278 late-run Sockeye Salmon during 2004– 2013, with an annual average of 3,505 fish. Sport fishery bag and possession limits for late-run Sockeye Salmon are initially 3 per day and 6 in possession, but are liberalized per the allocative management plans based on return abundance. Total sport fish harvests have ranged from

203,602 to 470,547 late-run Sockeye Salmon during 2003–2012, with an annual average of 320,122 fish. For the Russian River component, sport harvests have ranged from 9,331 to 33,935 late-run Sockeye Salmon during this time period, with an average of 21,200 fish.

The late-run Sockeye Salmon enter the Kenai River from about early July through mid-August. The total drainage spawning escapement has ranged from 703,979 to 1,876,180 late-run Sockeye Salmon during 2003–2012, with an average of 1,258,861 fish (Begich et. al. 2013). The late-run Sockeye Salmon spawn throughout the drainage, with 35%-42% spawning within the mainstem Kenai River above Skilak Lake, 10%-20% spawning within the mainstem Kenai River at the outlet of Skilak Lake, 11%-21% spawning in the upper tributaries of the watershed, and 7%-11% spawning in Skilak Lake and its tributaries (Willette et al. 2012).The Russian River spawning escapement has ranged from 31,364 to 110,244 late-run Sockeye Salmon during 2004–2013, with an average of 60,520 fish.

Table 3. Personal Use Fisheries Harvest for Kasilof River set net fishery, Kasilof River dip net fishery, Kenai River dip net fishery, Fish Creek (Knik Arm) dip net fishery from 2010 to 2013 for residents of Cooper Landing, Hope, and Ninilchik (Fall, J. A. et al. 2013a&b,14,15)

	Cooper Landing (Pop. 289) (161 households)			Hope (Pop. 210) (107 households)			Ninilchik (Pop. 1,476) (682 households)		
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook
2010	235	1	2	245	1	0	3,000	10	10
2011	361	2	2	306	1	0	3,316	8	10
2012	283	0	0	277	1	0	2,968	7	0
2013	206	1	0	312	1	0	2,222	13	0
TOTAL	1,087	4	4	1,140	4	0	11,506	38	20
AVG	272	1	1	285	1	0	2,876	9.5	5
Per household Average	1.6			2.7			4.2		

Table 4. Personal Use Fisheries Sockeye Salmon Harvest, Number of Permits, Sockeye per Permit, Households, and Population Numbers for Kasilof River set net fishery, Kasilof River dip net fishery, Kenai River dip net fishery, Fish Creek (Knik Arm) dip net fishery from 2010 to 2013 for residents of Cooper Landing, Hope, and Ninilchik (Fall, J. A. et al. 2013a&b,14,15).

	Cooper Landing (Pop. 289) (161 households)			Hope (Pop. 210) (107 households)			Ninilchik (Pop. 1,476) (682 households)		
Year	Permits	Sockeye	Sockeye/Permit	Permits	Sockeye	Sockeye/Permit	Permits	Sockeye	Sockeye/Permit
2010	26	235	9	14	245	17	168	3,000	18
2011	19	361	19	17	306	18	183	3,316	18
2012	30	283	9	13	277	21	163	2,968	18
2013	14	206	15	19	312	16	151	2,222	15
TOTAL	89	1,087	52	63	1,140	72	665	11,506	69
AVG	22	272	**13**	16	285	**18**	166	2,876	**17**

Chinook Salmon

A series of radio-telemetry studies and in-river abundance estimation techniques have identified differential run times and spawning distributions for Chinook Salmon returning to the Kenai River. Indices of run strength for Chinook Salmon entry times into the Kenai River indicates two runs with the early component of the run peaking between 8 and 20 June and a later component peaking between 17 and 25 July (Hammarstrom and Larson 1986; Conrad and Larson 1987; Conrad 1988; Carlon and Alexandersdottir 1989; Alexandersdottir and Marsh 1990; Miller et al. 2011; Reimer 2013). Chinook Salmon entering the Kenai River during July and August are considered "late-run" fish and almost exclusively spawn during August and early September in the main-stem Kenai River (Burger et al.1985; Bendock and Alexandersdottir 1991, 1992; Reimer 2013). Each run, early and late, are managed independently primarily because of differences in run size, run timing, and spatial distribution of spawning fish.

Chinook Salmon abundance in the Kenai River and throughout Alaska has been decreasing since around 2007 (ADF&G Chinook Salmon Research Team 2013). Some stocks are also exhibiting declining trends in size and age, including Kenai River Chinook Salmon that spawn on the Kenai National Wildlife Refuge, either in tributary streams (Boersma and Gates 2016) or the main-stem Kenai River (Lewis et al. 2015). Several potential, but as yet unproven, causal factors for this downward trend in abundance, include: size-selective harvest, competitive interactions, and changing environmental conditions (Lewis et al. 2015). Mainstem spawning areas were identified between RM 13 and RM 80, with higher spawning densities document between RMs 14 – 15, 17 – 21, and 46 – 47, and with the section between RM 46 and 47 shown to support the highest number of spawners (Reimer 2013). Of the 50 river miles in the drainage available for sport fishing for Chinook Salmon (all below Skilak Lake), only about 5 miles are within Federal public waters (RM 48 – 45.5 and RM 29 – 26.5).

Early-Run Chinook Salmon

Early-run Chinook Salmon enter the Kenai River from about mid-May through late-June. Most early-run Chinook Salmon spawn in Kenai River tributaries below the outlet of Skilak Lake, and most of these spawners are bound for the Killey and Funny Rivers. In general, about 80% of the early-run Chinook Salmon spawn in either the Funny or the Killey Rivers, while only about 7% of all early-run Chinook Salmon spawn in tributaries above Skilak Lake (Bendock and Alexandersdottir 1992, Burger et al. 1983). In the mainstem Kenai River, staging behavior (preparing for spawning) generally runs from early- to mid-July with most spawning occurring from mid-July through August. During this time a small segment of early run Chinook Salmon (7-20% of the total run) also utilizes the main stem Kenai River to spawn (Bendock and Alexandersdottir 1992, Burger et al. 1983). For Chinook Salmon, the stretch of river encompassing river miles 46 and 47 on the Kenai National Wildlife Refuge represents some of the highest densities of spawners in the entire watershed (Reimer 2013).

The State's optimal escapement goal (OEG)[2] range for early-run Chinook Salmon is 5,300 to 9,000 fish for the Kenai River system. Escapement is monitored by sonar at RM 14 between mid-May and mid-August.

[2] An optimum escapement goal, which may be expressed as a range, allows for sustainable runs based on biological needs of the stock and ensures healthy returns for commercial, sport, subsistence, cost-recovery, and personal use

Additionally, a gillnet at RM 9 is used to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a). The spawning escapement for the years 2006 – 2015 averaged 7,473 fish, with a range of 4,460 fish in 2013 to 13,282 in 2006. The spawning escapement in 2014 was 5,776 fish and in 2015 was 6,190 fish (ADF&G 2016b).

The State's Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 57.160) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. This plan also tries to ensure that the age and size composition of the harvest closely approximates that of the run. The primary harvest of this run occurs within the sport fishery. Most of the sport harvest is taken within the Kenai River. Based on tag recoveries, a small amount of harvest of early-run Chinook Salmon also occurs within the Deep Creek marine sport fishery (King and Breakfield 2002). The State manages other fisheries to minimize the harvest of this run. The commercial and personal use fisheries open after most early-run Chinook Salmon have entered the Kenai River, and the personal use fishery has a seasonal limit of 1 Chinook Salmon per household. The Kenaitze Indian Tribe's educational fishery has historically had a seasonal limit of 300 Chinook salmon, but in 2014 the limit was decreased to 50 Chinook salmon to conserve returning fish.

The early-run Chinook Salmon OEG range mentioned above is set by this plan. To determine whether or not the escapement goal will or will not be achieved, daily sonar estimates of Chinook Salmon passing the sonar site (at RM 14) and estimates of the sport harvest from creel surveys are utilized in a run timing model to project total in-river return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the OEG range, the fishery is incrementally restricted to catch-and-release only and ultimately to closure, if necessary. Bait cannot be used until escapement is projected to fall within the OEG range. To help prevent the harvest of 5-ocean fish[3], there is a slot limit that specifies the size of Chinook Salmon that may be retained (less than 42 inches in length or greater than 55 inches in length). The slot limit is in effect from 1 January to 30 June from the Kenai River mouth upstream to the outlet of Skilak Lake, and from 1 to 14 July from the Slikok Creek upstream to the outlet of Skilak Lake.

All sport fishing for early-run Chinook Salmon in the Kenai River occurs below Skilak Lake. The bag and possession limit is 1 Chinook Salmon per day and 1 in possession. Additionally, there is an annual limit of 2 Chinook Salmon from the Kenai River. Only Chinook Salmon less than 42 inches or greater than 55 inches can be retained in the sport fishery. Sport fishery harvests of early-run Kenai River Chinook Salmon during 2004-2013 have ranged from 0 to 4,693, with an average of 2,334 (Begich 2013). The Kenaitze Indian Tribe's educational fishery harvest has ranged from 11 to 76 early-run Chinook Salmon during 2004–2013, with an average of 42 fish (Begich et al. 2013). No estimates of the number of early-run Kenai River Chinook salmon harvested in commercial or personal use fisheries are available, but due to the timing of these fisheries these harvests are assumed to be negligible.

harvests. Optimum escapement goals are set by the State of Alaska Board of Fisheries (ADF&G. 2016a).

[3] 5-ocean fish have spent five years in the ocean before returning to their natal streams to spawn.

Late-Run Chinook Salmon

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

The sustainable escapement goal (SEG)[4] range for late-run Chinook Salmon is 17,800 to 37,500 fish. As with early-run Chinook Salmon, escapement is monitored by sonar at RM 14 between mid-May and mid-August. Additionally, a gillnet at RM 9 is used to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a). The spawning escapement for the years 2006 – 2015 averaged 26,613 fish with a range of 16,527 fish in 2010 to 48,950 in 2006. The spawning escapement in 2014 was 17,446 fish and in 2015 was 22,654 fish (ADF&G 2016b).

The State's Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. While this run is primarily managed for use by the sport fishery, the incidental harvest in commercial fisheries is substantial. Most of the sport harvest is taken below the Soldotna Bridge within the Kenai River and some are taken in marine waters in the Deep Creek sport fishery. The bag and possession limit is 1 Chinook Salmon per day and 1 in possession. Additionally, there is an annual limit of 2 Chinook Salmon from the Kenai River. Most of the commercial harvest is taken in the East Side set gillnet fishery. The personal use fishery has a seasonal limit of 1 Chinook Salmon per household, and the Kenaitze Tribe's educational fishery had a seasonal limit of 50 Chinook Salmon in 2014. To determine whether or not the escapement goal will or will not be achieved, daily sonar estimates of Chinook Salmon passing the sonar site and estimates of the sport harvest from creel surveys are utilized in a run timing model to project total inriver return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the SEG range, the fishery is restricted by several steps, including prohibiting use of bait, to catch-and-release only with barbless hooks, and if necessary, closure.

The harvest of late-run Chinook Salmon is monitored in the commercial, personal use, sport, and educational fisheries (Begich et al. 2013). Commercial fishery harvests during 2004–2013 have ranged from 640 to 16,925 Kenai River late-run Chinook Salmon, with an average of 7,380 fish. Harvests in the Deep Creek

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

marine sport fishery have ranged from 30 to 996 Kenai River late-run Chinook Salmon during 2003–2012, with an average of 446 fish. Sport fishery harvests in the Kenai River have ranged from 103 to 18,214 late-run Chinook Salmon during 2003-2012, with an average of 9,926. Personal use dip net fishery harvests have ranged from 11 to 1,509 late-run Chinook Salmon during 2004–2013, with an average of 904 fish. Kenaitze Tribe's educational fishery harvests have ranged from 0 to 21 late-run Chinook salmon during 2004–2013, with an average of 9 fish.

Coho Salmon

Coho Salmon are the last of the salmon species to enter the Kenai River each year. The majority of the run enters the Kenai River from late-July through mid-September, but continues at lower rates into November (Begich et al. 2013). Burger et al. (1983) found that Coho Salmon spawned in the mainstem Kenai River, as well as its tributaries, with mainstem spawning observed as late as January. Spawning was documented from RM40 upstream to RM74.5, and large numbers of spawning Coho Salmon were observed below Skilak Lake (RM 40 – RM50).

The State manages Kenai River Coho Salmon primarily for take in sport fisheries, and the Kenai River Coho Salmon Management Plan (5 AAC 57.170) establishes management actions and guidelines for sport harvest. There are no escapement goals for Kenai River Coho Salmon. Although genetic studies have shown differences between and within early and late returning spawning components (Olsen et al. 2003, Crane et al. 2007), the entire run is currently managed as a single stock by the State.

The harvest of Coho Salmon is monitored in all existing commercial, personal use, sport, and educational fisheries, but stock specific information for commercial fisheries, based on coded-wire tag returns, is only available through 2003 (Lafferty et al. 2005). While total harvests of Coho Salmon in Upper Cook Inlet commercial fisheries are generally several hundreds of thousands each year, harvest of Kenai River Coho Salmon are only a small component of the total. Commercial fishery harvest has ranged from 95,215 to 311,058 Coho Salmon during 2004-2013, with an average of 172,716 fish. Total sport fishery harvest has ranged from 36,407 to 65,952 Coho Salmon during 2003-2012, with an average of 47,371 fish. There is no estimate of catch-and-release mortality for this sport fishery.

Rainbow Trout

The Kenai River also supports one of the largest Rainbow Trout sport fisheries in the United States, with annual catches that have been trending upward since the 1980's (Begich et al. 2013). Increasingly restrictive regulations were adopted for this fishery since the 1950's due to public concern and an initial lack of biological data. ADF&G began population estimation projects in 1986 using mark-recapture methods, and have repeated estimation projects multiple times since then. Estimations between 1986 and 2009 have shown increases in the size of the Rainbow Trout population as further restrictions have been enacted on the fishery. The State sport fishery is closed from May 1 through June 11 to protect Rainbow Trout during their spawning period. Radio telemetry projects have found the majority of Rainbow Trout from the area of the Kenai River drainage downstream of Skilak Lake spawn between RM 45.8 and RM 48 during that time period (Palmer 1998; Eskelin 2016, pers. comm.). Measurements of spawning Rainbow Trout in the Kenai River demonstrated that 95% of females 20 inches in length or larger are spawners, and

that the minimum length at spawning is approximately 16 inches (OSM 2007).

Rainbow Trout abundance estimates have been generated several times for index sections of the Kenai River since the mid 1980's. Abundance estimates of fish over 200mm (~7.8 inches) in the upper Kenai River index area have taken place in 1986 (3,640 fish, SE 456), 1987 (4,950 fish, SE 376), 2001 (8,553 fish, SE 806), and 2009 (5,916 fish, SE 481; Begich et al. 2013). The upper Kenai River index area is the most heavily fished section of the upper Kenai River (King and Breakfield 2007), and is situated above Skilak Lake and below the Russian River between RM 69.7 and RM 73.2. Abundance estimates for fish of the same size in the middle Kenai River index area have taken place in 1987 (1,750 fish) and 1999 (7,883 fish). The middle Kenai River index area is the most heavily fished section of the river where regulations allow retention of Rainbow Trout (Larson and Hanson 2000), and is located above Naptowne Rapids and below Skilak Lake between approximately RM 38 and RM 50. There have been no drainage-wide estimates generated to date.

The catch and harvest of Rainbow Trout in the Kenai River are monitored through the Statewide Harvest Survey. Catches of Rainbow Trout in the Kenai River since 1984 have ranged between 8,720 and 202,875, with an average during 2008–2012 (most recent data published) of 189,400 fish (Begich et al. 2013). Harvests of Rainbow Trout, however, are substantially smaller and have ranged (since 1984) between 1,560 and 3,940, with an average during 2008–2012 of 2,470.

Dolly Varden

There are assumed to be both resident and anadromous forms of Dolly Varden in the Kenai River. Anadromous fish are believed to enter the Kenai River in July (Begich et al. 2013). Both forms move within the Kenai River drainage from summer feeding sites to spawning location by mid-to late September. Spawning occurs between mid-September and late October, after which these fish moved to overwintering locations (Palmer and King 2005). Outmigration from the drainage by anadromous fish occurs in April and May. Minimum length at spawning for this population is approximately 12 inches in length, and the majority of females 18 inches or longer in length are spawners (OSM 2007). There are no Dolly Varden population estimates for the Kenai River.

The catch and harvest of Dolly Varden in the Kenai River are monitored through the Statewide Harvest Survey. Catches of Dolly Varden in the Kenai River since 1990 have ranged between 34,577 and 166,618, with an average during 2008–2012 (most recent data published) of 127,280 fish. Harvests of Dolly Varden are substantially smaller, and have ranged (since 1990) between 1,789 and 14,517, with an average during 2008–2012 of 2,680. Similar to the Rainbow Trout Fishery, the Dolly Varden sport fishery has experienced increasingly restrictive regulations over time (Begich et al. 2013).

Research Related to Gillnets on the Kenai River

Research related to the effects of gillnet in the Kenai River in a subsistence fishery setting is limited to the results of experimental community gillnet by Ninilchik residents in 2016, but other gillnets have been placed in the river during past research.

As stated in a previous section ADF&G has monitoring escapement projects on the Kenai River (via sonar) at RM 14 between mid-May and mid-August. A gillnet is used at RM 9 to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a).

From 1999 to 2003, ADF&G used a combination of fishing methods to recapture Coho Salmon in the Kenai River as a part of a mark-recapture study to estimate the abundance of adult Coho Salmon in the Kenai River (Carlon and Evans 2007). The recapture event primarily used a drift gillnet (4.75" mesh, 29 meshes deep, 5 fathoms in length), but, to a limited extent, supplemented the recapture catch with other methods including a set gillnets, fish wheels, hook-and-line, and seining. The drift gillnet specifications were intended to capture fish by entanglement rather than by wedging fish into a single mesh space permitting fish to be more easily removed upon capture and decreasing injury.

The recapture event of this study was conducted in two reaches on the Kenai River:

1.) In 1999 along the banks between Soldotna Bridge and the Funny River tributary confluence (RM 21.1 – RM 30.4). This reach encompasses Moose Range Meadows (RM 26.5 – RM 29)

2.) From 2000-2003, along the banks at the confluence of the Moose River tributary (RM 30.4 – RM 36.3)

In the 1999 recapture event, effort was expended daily during the following periods: August 9 through October 8, 1999. The recapture events from 2000 to 2003 effort were expended daily during the following periods: August 1 through October 13, 2000; August 1 through October 5, 2001; August 2 through October 4, 2002; and August 1 through October 5, 2003.

The catch and effort results from the recapture event of this study is summarized below are summarized in **Table 5** and **Table 6** below.

It is important to note that this study did not follow mortality for species other than Coho Salmon. The study did occur in the area of Moose Range Meadows for one year (1999) and in the area above Moose Range Meadows from 2000-2003. The time period of sampling also did include times in which the experimental gillnet fishery was performed (early-mid August), but most of it occurred through late-August till early to mid-October. Methods did include the use of a drift and set gillnet with similar specifications to those used in the experimental gillnet fishery.

Table 5. Catches of species during the recapture events, 1999-2003 (Carlon and Evans 2007)

Species	1999	2000	2001	2002	2003
Coho	2,098	3,161	4,669	5,145	3,493
Sockeye	1,126	1,235	1,162	1,712	1,861
Chinook	263	318	395	393	828
Pink	27	9,299	8	14,354	4
Chum	0	0	0	1	0
Dolly Varden	179	206	241	442	248
Rainbow Trout	208	343	745	397	1,304
Steelhead	3	3	8	3	24
Whitefish	5	1	1	3	1
Longnose Sucker	2	0	0	1	1

Table 6. Summary of effort in net hours by gear type during the recapture events, 1999-2003 (Carlon and Evans 2007)

Gear Type	1999	2000	2001	2002	2003
Drift Gillnet	255.0	253.8	305.1	206.0	322.5
Set Gillnet	0.0	69.5	43.9	0.2	0.5
Hook-and-Line	0	34	9	238	6
Fish Wheel	916	0	0	0	0
Beach Seine	0	0	0	82	0

Catch and Release Mortality

A number of studies have been conducted to examine unintended mortality in catch and release fisheries. Rates of unintended mortality from catch and release fishing vary across studies due to factors such as species, life stage, water temperature, and gear type. A literature review of 18 studies by Taylor and White (1992) found a 3.8% mortality rate associated with fly-fishing, a 4.9% rate associated with lures, and a 31.4% rate associated with bait. Another review of 7 studies by Schill and Scarpella (1997) found a 4.5% mean mortality rate for barbed hooks compared to 4.2% for barbless. Lindsay et al. 2004 found a 12.2% rate of mortality in Chinook Salmon in the lower Willamette River of Oregon, while Bendock and Alexandersdottir (1990) found rates of 13% for male and 7% for female Chinook Salmon in the Kenai River. DeCicco (1994) found rates below 2% for Dolly Varden from the Nome and Snake rivers of Northwest Alaska. Estimated catch and release mortality ranges for the early-run Chinook Salmon sports fishery in the Kenai River range from 0 to 257 fish (Begich et al 2013). Estimated catch and release mortality ranges for the late-run Chinook Salmon sports fishery in the Kenai River range from 79 to 1,267 fish, which equates to an average estimated mortality rate of around 1% of the in-river run total before sportfish harvest has been removed (Begich et al 2013). Although no estimates of catch and release

mortality exist for Rainbow Trout, a recent stock assessment performed in the Kenai River drainage (Eskelin and Evans 2013) reported that over 92% of the Rainbow Trout were observed to have hooking injuries. The authors suggested that it was likely that the trout in some sections of the river are caught and released multiple times. No estimates of catch and release mortality exist for Dolly Varden.

Overall, some amount of mortality is a recognized consequence of catch and release fisheries, including those currently authorized in the Kenai River.

Gillnet Release Mortality

Research has also been conducted to examine the rates of mortality for a variety of fish caught and released from gill and tangle nets (WDFW 2014). The studies summarized in this literature review come from 13 papers based in a variety of locations ranging from Bristol Bay to Finland. The study sites were mainly concentrated in Washington or British Columbia, with only two sites in Alaska (Bristol Bay and Kodiak). The study years for these projects ranged from 1955 to 2007 (median ~ 2000) and a majority of them focus on salmonid species being captured and immediately released in estuarine locations. Variables considered in these studies included mesh size, fish size, soak time, water temperature, location type, maturity state, and migration duration. Those studies that focus on fish released from gillnets demonstrated a wide range of mortality. Immediate mortality rates ranged between 0.5% and 98% depending on the variables considered and within the context of the studies considered in the literature review. For example, the lowest mortality rate was for Chinook Salmon in the spring (cooler water) in a freshwater environment with a 5.5 inch mesh gillnet whereas the 98% mortality was in July (warmer water) in an estuary environment with an 8 inch mesh gillnet. Long-term mortality rates ranged between 2.3% and 60.6%, again depending on the variable and within the context of the studies considered in the literature review.

Overall, unintended mortality is a recognized consequence of releasing fish captured in gillnets.

Federal Subsistence Harvest

Rural residents of Cooper Landing, Hope and Ninilchik have harvested fish in the Kenai River drainage under Federal subsistence regulations since 2007. In addition to the rod and reel fishery in Federal waters of the Kenai River, there exist three areas in the Kenai River drainage in which Federally qualified subsistence users of Cooper Landing, Hope and Ninilchik may harvest salmon by dip net and rod and reel, as well as a separate community gillnet fishery for the residents of Ninilchik.

Russian River Falls

Cooper Landing and Hope residents have fished almost exclusively in the Russian River Falls area over the past nine years. Cooper Landing residents have reported a harvest of 8,609 Sockeye Salmon since 2007; 7,905 in the dip net fishery with an annual average of 878 fish, and 704 in the rod and reel fishery with an average of 89 fish (**Table 7**). Hope residents have reported a harvest of 2,357 Sockeye Salmon since 2007; 2,142 in the dip net fishery with an average of 238 fish, and 215 Sockeye Salmon in the dip net fishery with an annual average of 24 fish (**Table 8**). Ninilchik residents have harvested in the Russian River Falls area to a much lesser extent. They have utilized the dip net fishery in six of the nine years that it has been a

harvest option, with a reported harvest of 155 Sockeye Salmon, and an annual average of 26 fish over the six years. They have utilized the rod and reel fishery three of the nine years (2007–2009), with a reported harvest of 281 Sockeye Salmon; an average of 94 for the three years (**Table 9**). There has been no reported harvest of Chinook Salmon in the Russian River Falls area under Federal regulation.

Kenai River below Skilak Lake, RM 45.5 to RM 48

For the years 2007–2015, a total of 30 Sockeye Salmon have been reported as harvested in this area, all by Ninilchik residents using dip nets, and all in the year 2009 (**Table 9**). There has been no reported harvest by Cooper Landing and Hope residents in this area (**Tables 7 & 8**). There has been no reported harvest of Chinook Salmon in this area under Federal regulation.

Kenai River, Moose Range Meadows, RM 26.5 to RM 29

Cooper Landing residents reported harvesting 44 Sockeye Salmon in the rod and reel fishery for the years 2011–2015, but have not reported harvest of any fish in the dip net fishery for this area (**Table 7**). Hope residents have not reported harvest of any fish in either the dip net or the rod and reel fisheries in this area (**Table 8**). In 2007, Ninilchik residents reported a harvest of 12 Sockeye Salmon in the dip net fishery in this area. There has been no reported harvest in the dip net fishery since. In the rod and reel fishery, Ninilchik residents reported a total harvest of 741 Sockeye Salmon for the years 2008–2015, an annual average of 93 fish. They also reported harvesting 5 Coho Salmon in 2008 (**Table 9**). There has been no reported harvest of Chinook Salmon in the Moose Range Meadows area under Federal regulation.

Table 7. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Cooper Landing Residents

Dip Net Fisheries

	Russian River Falls			Kenai River below River Mile 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	437	n/a	n/a	0	0	0	0	0	0	437
2008	960			0	0	0	0	0	0	960
2009	706			0	0	0	0	0	0	706
2010	622			0	0	0	0	0	0	622
2011	794			0	0	0	0	0	0	794
2012	998			0	0	0	0	0	0	998
2013	996			0	0	0	0	0	0	996
2014	1,216			0	0	0	0	0	0	1,216
2015	1,176			0	0	0	0	0	0	1,176
TOTAL	7,905									7,905
AVG	878									878

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	108	7					0	0	0	115
2009	46	9					0	0	0	55
2010	57	0					0	0	0	57
2011	46	0					6	0	0	52
2012	43	0					11	0	0	54
2013	49	4					12	0	0	61
2014	97	2					9	0	0	108
2015	89	0					6	0	0	95
TOTAL	704	27					44	0	0	771
AVG	78	3					5			86

Source: USFWS 2007 – 2015

Table 8. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Hope Residents

Dip Net Fisheries

	Russian River Falls			Kenai River below Mile 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	85	n/a	n/a	0	0	0	0	0	0	85
2008	280			0	0	0	0	0	0	280
2009	103			0	0	0	0	0	0	103
2010	172			0	0	0	0	0	0	172
2011	159			0	0	0	0	0	0	159
2012	287			0	0	0	0	0	0	287
2013	252			0	0	0	0	0	0	252
2014	402			0	0	0	0	0	0	402
2015	402			0	0	0	0	0	0	402
TOTAL	2,142									2,142
AVG	238									238

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	6	0					0	0	0	6
2009	18	0					0	0	0	18
2010	0	0					0	0	0	0
2011	0	0					0	0	0	0
2012	0	0					0	0	0	0
2013	19	0					0	0	0	19
2014	3	0					0	0	0	3
2015	0	0					0	0	0	0
TOTAL	215	5								220
AVG	24	0.6								24

Source: USFWS 2007 – 2015

Table 9. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Ninilchik Residents

Dip Net Fisheries

	Russian River Falls			Kenai River below Mile 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	5	n/a	n/a	0	0	0	12	0	0	17
2008	41			0	0	0	0	0	0	41
2009	0			30	0	0	0	0	0	30
2010	10			0	0	0	0	0	0	10
2011	0			0	0	0	0	0	0	0
2012	0			0	0	0	0	0	0	0
2013	19			0	0	0	0	0	0	19
2014	54			0	0	0	0	0	0	54
2015	26			0	0	0	0	0	0	26
TOTAL	155			30			12			197
AVG	17			3			1.3			22

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	11	0					202	5	0	218
2009	101	0					93	0	0	194
2010	0	0					42	0	0	42
2011	0	0					84	0	0	84
2012	0	0					75	0	0	75
2013	0	0					61	0	0	61
2014	0	0					115	0	0	115
2015	0	0					69	0	0	69
TOTAL	281	5					741	5		1,032
AVG	31	0.6					82	0.6		115

Source: USFWS 2007 – 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 are related to this period. Homesteading in the Homer region occurred from 1915 through 1940. With the construction of roads and local oil development after in the 1950s, the population of the Kenai Peninsula increased substantially through in-migration of people born outside Alaska.

From the early 1900s, the annual subsistence pattern of the *Dena'ina* included commercial fishing in the spring and summer at the mouth of the Kenai River before moving up-river in the fall to harvest Coho Salmon and freshwater fish, hunt moose, and trap furbearers. This cycle continued until the 1940s when the creation of the Kenai National Moose Range disrupted traditional harvest patterns. Despite new federal refuge enforcement efforts, many *Dena'ina* continued to access their Stepanka camps, long used settlements up the Kenai River near Skilak Lake (Fall et al. 2004:16–20).

Commercial and subsistence fishing were also an important aspect of the annual cycle of the Kenai Peninsula homesteaders. In freshwater, gillnets and seines were used in the Kenai, Skilak, and Tustumena Lakes to harvest lake trout, grayling, whitefish, and char. Trappers in the upper Kenai River area maintained gillnets and caught salmon and trout for personal use. Other uses mentioned were taking Coho Salmon through the ice in the winter and steelhead below Skilak Lake in the late 1940s and early 1950s (Fall et al. 2004:20-21). Andrew Berg, who lived from 1869 to 1939 and was a guide on the Kenai Peninsula, documented his use of subsistence resources including harvesting trout in Tustumena Lake and Dolly Varden, salmon, and whitefish at the mouth of Indian Creek (Cassidy and Titus 2003).

Subsistence fishing in the freshwaters of the Kenai Peninsula was prohibited from 1952 until the Federal Subsistence Board created a subsistence fishery in 2002 which mirrored the State sport fishing regulations. Since statehood, legal availability of fishery resources in Federal public waters has been defined by State sport fishing regulations, and these regulations do not provide for harvest of all species or harvest by traditional methods and means. In this area, preferred traditional methods and means include nets, an efficient method and means of harvest for subsistence users who traditionally harvest as much fish as they can process at once. Rod and reel is considered an authorized subsistence gear type under Federal subsistence regulations and under State regulations in some parts of the state. In some cases under State regulations, rod and reel has been recognized as traditional gear in places where fish fences or traps are no longer a legal means to harvest fish and rod and reel is the only legal alternative (Williams et al. 2005:31–32).

In 1952, gillnets were made illegal in many freshwaters, and the Kenai Peninsula *Dena'ina* ceased using gillnets during the fall occupation of their upriver harvest sites. The Stepanka fishery, that had been a traditional, long-standing source of salmon for the *Dena'ina* (Kenaitze) Indians, was closed. As a result of this closure, snagging became the primary harvest method until it was made illegal in 1973. Local residents turned to sport fishing without snagging, and continued to fish the beaches of Cook Inlet with gillnets in the State subsistence fishery. In the 1970s, sport fishing had grown in popularity and the Kenai had become a favorite spot for fishing and recreation. The Kenai Peninsula is unique in that rural communities are interspersed among much larger nonrural communities. By the early 1980s the Alaska Board of Fisheries added more restrictions on subsistence and personal use fishing along the Cook Inlet beaches,

closing beaches to subsistence gillnetting. By the mid-1990s, only two personal use fisheries remained at the mouth of the Kenai and Kasilof rivers (Fall et al. 2004:22–23; 30).

Regulations relating to areas, seasons, and methods have changed consistently over the past 54 years, and have become more restrictive, requiring residents to take different approaches to obtaining subsistence resources. For example, in the case of salmon, as regulations and conditions have changed, residents have adapted their traditional practices to continue to obtain salmon—trade it, buy it, or harvest it in new ways under various regulatory regimes (Georgette 1983:186–187). In 1993, as the result of a lawsuit filed by the Kenaitze Tribe, a State judge ordered the development of educational fisheries for the NTC, the Knik Tribal Council, the Native Village of Eklutna and the Kenaitze Tribe (Loshbaugh 1993:1, 14). The educational fishery provided another means for residents to harvest salmon using gillnets. The educational permits, however, were a compromise: "Villagers—who have traditionally focused on early-run king salmon will be catching mostly reds under the proposed permit" (Loshbaugh 1993:14).

Additional Issues for Board Consideration

As currently written, Federal subsistence regulations for the Kenai and Kasilof rivers are confusing and at times contradictory. The Board may want to consider directing OSM to submit a regulatory proposal to review and revise the Cook Inlet subsistence fisheries regulatory section (§___.27(e)(10)(iv)) during the next fisheries regulatory cycle to clarify and simplify regulatory language in an effort to resolve unnecessary complexities and inconsistencies between the regulations for both rivers.

Additionally, if the Board does not choose to adopt FP17-06/07, it may wish to consider removing the annual total harvest limits for the Kenai dip net/rod and reel fishery. These limits have been the focus of much discussion lately, including in this proposal and the request for reconsideration submitted for the Kenai River community gillnet fishery. The limits were initially associated with a proposal by the NTC in 2007 for a set gillnet fishery in the Kasilof and Kenai rivers (FP07-27B). The proposed totals (1,000 Chinook Salmon, 4,000 Sockeye Salmon, and 2,000 Pink Salmon) were to be a set quantity that would be allowed for harvest in the gillnet fishery proposed in 2007 to span both river systems, and were not based on a biological analysis. During the 2007 Federal Board Meeting cycle for the Kenai Peninsula fisheries, the OSM used this and numerous other proposals to generate proposed area wide regulations. One of the outcomes of this process was to set annual total harvest limits for the Kenai dip net/rod and reel fishery using the proposed numbers from FP07-27B.

The current annual total harvest limits for the Kenai River dip net/rod and reel fishery exist in addition to the annual household limits that are in place for the same species, and create regulatory confusion and concern that all Federally qualified subsistence users will not be provided subsistence opportunity before annual total limits are achieved. For example, one of the concerns expressed in opposition to the Kenai River community gillnet fishery is that the one authorized gillnet could potentially harvest the total Sockeye Salmon annual total limit (4,000) at the Moose Range Meadows area by residents of Ninilchik prior to the time of year that residents of Cooper Landing and Hope harvest Sockeye Salmon at their preferred location in the Russian River. Removal of this annual total harvest limit would alleviate this concern and would allow the fishery to continue to be managed by annual household limits. The Federal in-season manager would continue to open and close the fisheries by Federal special action, if necessary.

Effects of the Proposal

If one or both of these proposals were adopted, the community gillnet salmon fishery in the Kenai River for Ninilchik residents would be eliminated. This would remove the community gillnet salmon fishery regulations for the Kenai River adopted by the Board in January 2015, which became effective in April 2015. These regulations would still allow for the retention of late-run Chinook via the Federal dip net and rod and reel fishery. The regulations will still prohibit the retention of early-run Chinook Salmon at the three specific sites in the Federal waters on the Kenai River (Russian River Falls, Kenai River below Skilak Lake (RM 45.5 to 48), Moose Range Meadows) via the Federal dip net and rod and reel fishery, while allowing harvest of early-run Chinook Salmon via the additional rod and reel fishery elsewhere in the Federal waters of the Kenai River (with a protective slot limit). Additionally, Federal regulations prohibit the retention of Rainbow Trout and Dolly Varden over 18 inches.

Given the recent results of the community gillnet fishery adopted and opened under FSA16-02 on July 29, 2016, the removal of the community gillnet may allow a number of salmon species to continue to migrate to spawning grounds throughout the Kenai River system. At the conclusion of the community gillnet fishery, the Ninilchik community caught 755 Sockeye Salmon, 7 Pink Salmon, 1 Chinook Salmon, and 12 Coho Salmon, while harvesting 723 Sockeye Salmon, 6 Pink Salmon, 1 Chinook Salmon, and 12 Coho Salmon. The results from the community gillnet fishery need to be taken with careful consideration as they were produced in a limited time window and with specific methods that could have influenced the amount and range of species harvested. However, had the community gillnet not been implemented, the amount of harvest on the migrating populations that did occur could still have occurred under Federal regulations, but with different gear types (dip net and rod and reel).

The results from the recent community gillnet fishery allow for some inferences on the impact of a single community gillnet in the spawning areas of late-run Chinook Salmon. During the community gillnet fishery, only 1 Chinook Salmon was caught and harvested. The Chinook Salmon harvested in the gillnet, by regulatory definition, was a late-run Chinook Salmon as it was harvested after July 16. With or without the regulatory existence of a community gillnet in the Kenai River, the harvest of late-run Chinook on spawning areas in the Kenai River is still allowed with other methods and can still occur under Federal regulations up to 1,000 fish.

The results from the recent community gillnet fishery do not allow for any inferences on the impact of a single community gillnet fishery in spawning areas of early-run Chinook Salmon. The gillnet fishery was not implemented until July 29, by which time the 7% to 20% of the early-run Chinook that do spawn in the mainstem of the Kenai River would have likely spawned. If a community gillnet were to be implemented like it currently states in Federal regulations, from June 15 to August 15, the gillnet could potentially capture staging early-run Chinook Salmon that would eventually make their way to either the Funny/Killey Rivers or tributaries above Skilak Lake. The potential would also exist to capture the small portion of spawning Early-run Chinook Salmon (7% to 20%) that spawn in the mainstem of the Kenai River below Skilak Lake. The potential to capture these early-run Chinook in a gillnet is dependent on numerous variables (e.g. net size, dimensions, placement, etc.) and may or may not occur, but could be controlled in an operational plan. If early-run Chinook Salmon were captured by the community gillnet, they would

have to be released as it is stipulated in current Federal regulations. Depending on the range of injuries sustained as a result of capture in the gillnet, survival and/or spawning capabilities could be reduced.

By removing the community gillnet from the Kenai River, residents of Hope, Cooper Landing, and Ninilchik will have the same subsistence opportunities under the Federal dipnet and rod and reel fisheries in the Kenai River. Residents of Ninilchik will not have the additional subsistence opportunity for community harvest of salmon using a gillnet in the Kenai River. The removal of the gillnet would alleviate the concerns of residents from Hope and Cooper Landing, as the possibility of Ninilchik obtaining most of the harvest limits for salmon species would be diminished.

If both of these proposals are not adopted, the community gillnet salmon fishery in the Kenai River for Ninilchik residents would continue to be administered as originally adopted by the Board in 2015 and stipulated in Federal subsistence regulations. These regulations would still allow for the retention of late-run Chinook via the Federal dip net and rod and reel fishery. The regulations will still prohibit the retention of early-run Chinook Salmon at the three specific sites in the Federal waters on the Kenai River (Russian River Falls, Kenai River below Skilak Lake (RM 45.5 to 48), Moose Range Meadows) via the Federal dip net and rod and reel fishery, while allowing harvest of early-run Chinook Salmon via the additional rod and reel fishery elsewhere in the Federal waters of the Kenai River (with a protective slot limit). Additionally, Federal regulations prohibit the retention of Rainbow Trout and Dolly Varden over 18 inches.

Since little is known about the effects of a single fixed gillnet fished in the Moose Range Meadows area or the area below Skilak Lake on the Kenai River (until recent times) limited predictions, based on the best available data, can be made about the effects of a gillnet on salmon and resident species in the Kenai River. Other studies that have been performed in different regions of the country have shown that many variables have to be considered when determining the effects of immediate and long-term mortality rates on salmon. These variables include mesh size, fish size, soak time, water temperature, location type, maturity state, and migration duration. These studies show immediate mortality rates for salmonids range between 0.5% and 98% depending on various variables, while the long-term mortality rates for salmonids range between 2.3% and 60.6%, again depending on various variables. Based on the review of these studies in other systems, the possibility remains that unintended mortality of salmonids captured and released in a gillnet will be similar to other areas and will occur with the continued placement and operation of a gillnet on the Kenai River , as prescribed in regulation for certain portions of the Kenai River.

From 1999 to 2003, an ADF&G mark-recapture study was performed in the Moose Range Meadows area of the Kenai River, as well as at the confluence of the Moose River tributary (Carlon and Evans 2007). Although the study was performed to estimate the abundance of Coho Salmon in the Kenai River, it did capture other species of salmon and resident fish during the recapture events, with methods that included drift and set gillnets. The study did not follow any mortality events associated with the handling of the incidentally caught species. It was stated that it was possible that fish caught by the gillnets were subject to greater mortality because of the mechanics of entanglement capture by the gillnets, but that many of the fish released from the drift gillnets did not show any visible injuries. It should be noted that the study did occur in the area of Moose Range Meadows for one year (1999) and in the area above Moose Range Meadows

from 2000-2003. The time period of sampling also did include times in which the experimental gillnet fishery was performed (early-mid August), but most of it occurred through late-August till early to mid-October. Methods did include the use of a drift and set gillnet with similar specifications to those used in the experimental gillnet fishery. Based on this study from the Kenai River, the possibility remains that unintended catch of salmonids will occur with the continued placement and operation of a gillnet on the Kenai River, as prescribed in regulation for certain portions of the Kenai River.

At the conclusion of the 2016 community gillnet season, there was only 1 late-run Chinook Salmon caught and harvested in the community gillnet on the Kenai River, as well as the capture and release of 2 Dolly Varden. No Rainbow Trout or early-run Chinook were harvested during the experimental community gillnet fishery. This is the only available data that is directly related to the effects of a subsistence gillnet in the Kenai River, but careful consideration needs to be taken as it is just one data point that was produced in a limited time window and with specific methods that could have influenced the amount and variety of species harvested. The fact remains that a single community gillnet was implemented in the Kenai River, and that during the time period it was implemented and within the methods allowed by in current Federal regulations, the unintended catch and mortality of species of concern were minimal. If these harvest results are consistent with how the fishery would run on an annual basis as provided for in current Federal regulations, the amount of unintended catch and mortality of non-target species will be minimal.

A community gillnet remaining on the Kenai River will continue to provide additional subsistence opportunities for the residents of Ninilchik. Residents of Hope and Cooper Landing will continue to have subsistence opportunities provided to them under the Federal dip net and rod and reel fisheries in the Kenai River. There is the potential that annual total harvest limits for the Kenai River fishery could be reached through the community gillnet fishery before residents of Hope and Cooper Landing are able to harvest at their preferred locations in the upper Kenai River at Russian River Falls. The issue could be addressed in the operational plan.

OSM CONCLUSION

Given the ongoing RFR process related to the Kenai River community gillnet fishery, OSM is offering two potential courses of action for consideration. Option 1 assumes that the RFR process is ongoing: either the Board has not reached a decision about the threshold analysis or has determined that one or more claims meet the threshold for further analysis. Option 2 assumes that the RFR process has been completed and the Kenai River community gillnet fishery regulations remain in place.

<u>Option 1:</u>

Defer FP17-06/07.

Justification

Proposal FP17-06/07 mirror several requests for reconsideration (RFR) submitted to the Federal Subsistence Board regarding adoption of Proposal FP15-10 in January 2015. The adoption of FP15-10 authorized the use of one community gillnet in the Kenai River to harvest salmon by residents of Ninilchik

for subsistence. Currently, more than 700 RFRs are under evaluation by the Office of Subsistence Management (OSM). In addition to the RFRs, the NTC filed a lawsuit on October 22, 2015 in the U.S. District Court against the Federal Subsistence Board, the U.S. Department of Interior and the U.S. Department of Agriculture. The lawsuit petitions the court to compel the U.S. Fish and Wildlife Service to approve an operational plan for the gillnet fishery in the Kenai River. With simultaneous RFR and legal efforts occurring at this time, it is recommended by OSM that any decisions on FP17-06/07 be deferred so as not to preclude any decisions that have yet to be made by the Board through the RFR process and/or contradict any potential direction that may be received from the U.S. Court as a result of the pending litigation.

Option 2:

Oppose FP17-06/07.

Justification

To date, given the best available data obtained by the deployment of the experimental community gillnet fishery adopted and opened under FSA16-02, a single community gillnet on the Kenai River does provide an additional subsistence opportunity with minimal incidental harvest of species of concern. However, since this experimental gillnet fishery has only been executed once (from July 29 to August 15 with 20' and 60' net lengths), inferences made from this single data point need to be approached with careful consideration. Currently the only data that exists for a subsistence gillnet fishery on the Kenai River is the data that was gathered by the Ninilchik Tribal Council in association with the experimental community gillnet fishery. Additional data will allow for better inferences about the effects of a subsistence community gillnet fishery on the Kenai River. The collection of additional data can be controlled through an operational plan, which is already provided for under current Federal regulations. The only way that this process will occur is with the continued implementation of the community subsistence gillnet fishery. This provides a fair and reasonable balance between managing fish populations with conservation in mind while also providing for continued subsistence opportunity when it can be provided.

As the Federal regulation currently exists, an operational plan for the community gillnet on the Kenai River is required. Including harvest limits in the operational plan will ensure the protection of subsistence opportunities for all Federally qualified subsistence users.

At the conclusion of the 2016 experimental community gillnet fishery, only 1 Chinook Salmon was caught and harvested from the community gillnet. As the experimental subsistence gillnet fishery only was implemented from July 29 to August 15, which is well out of the time frame in which early-run Chinook have shown to stage or spawn in the mainstem of the Kenai, no concerns can be substantiated about the impacts of a single subsistence community gillnet fishery on the impacts of declining stocks of early and late-run Chinook Salmon in the Kenai River. The harvest of staging or spawning late-run Chinook Salmon is already permissible under current Federal regulations in the Kenai River with different gear types (dip net and rod and reel) up to a 1,000 fish, so harvest of staging or spawning late-run Chinook Salmon already occurs under an acceptable level of mortality and would still continue to be accepted with the keeping or removal of a single community gillnet on the Kenai River. Additionally, there needs to be consideration

on an acceptable level of mortality for all species of salmon and resident species in the subsistence community gillnet fishery and the sport fishery, while also considering subsistence priorities for Federally qualified subsistence users.

LITERATURE CITED

ADF&G. 2014. Kenai Chinook Estimates, Indices and Inseason Summaries. http://www.adfg.alaska.gov/sf/FishCounts/index.cfm?ADFG=main.kenaiChinook. Retrieved November 2014.

ADF&G. 2016a. Alaska Fisheries Sonar. Escapement Goals. http://www.adfg.alaska.gov/index.cfm?adfg=sonar.escapementgoals. Retrieved July 2016.

ADF&G. 2016b. Personal communication: e-mail from Jason Pawluk, Assistant Area Management Biologist, Northern Kenai Peninsula, to George Pappas, OSM State Liaison. June 28, 2016. Soldotna, AK.

ADF&G. 2016c. Kenai (RM 8.6) River. http://www.adfg.alaska.gov/index.cfm?adfg=sonar.site_fish&site=2 Retrieved July 2016.

Alexandersdottir, M., and L. Marsh. 1990. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1989. Alaska Department of Fish and Game, Fishery Data Series Number 90-55, Anchorage, Alaska.

Begich, R. N., Pawluk, J.A., Cope, J. L., and Simons, S. 2013. 2010-2012 Annual Management Report and 2013 recreational fisheries overview for Northern Kenai Peninsula: fisheries under consideration by the Alaska Board of Fisheries, 2014. Alaska Department of Fish and Game, Fishery Management Report No. 13-51, Anchorage.

Begich R. 2014a. Kenai River Early-Rung King Salmon Sport Fishery Closure, News Release, February 17, 2014.

Begich R. 2014b. Kenai River Salmon Fishing Restricted to Catch and Release with Barbless Hooks, News Release, July 17, 2014.

Begich R. 2014c. Kenai River Closed to King Salmon Fishing, News Release, July 24, 2014.

Begich R. 2014d. Kenai River Personal Use Dipnet Fishery Opens July 10, Retention of King Salmon will be Prohibited, News Release, June 26, 2014.

Bendock, T. and M. Alexandersdottir. 1990. Hook and Release Mortality of Chinook Salmon in the Kenai River Recreational Fishery. Alaska Department of Fish and Game, Fishery Data Series No. 90-16, Anchorage, Alaska.

Bendock, T. N., and M. Alexandersdottir. 1991. Hook-and-release mortality in the Kenai River Chinook Salmon recreational fishery. Alaska Department of Fish and Game, Fishery Data Series Number 91-39, Anchorage, Alaska.

Bendock, T. and M. Alexandersdottir. 1992. Mortality and movement behavior of hooked-and-released Chinook salmon in the Kenai River recreational fishery, 1989–1991. Alaska Department of Fish and Game, Fishery Data Series No. 92-2, Anchorage, Alaska.

Burger, C.V., D.B. Wangaard, R.L. Wilmot, and A.N. Palmisano. 1983. Salmon investigations in the Kenai River, Alaska, 1979 – 1981. Alaska Field Station, National Fishery Research Center, Fish and Wildlife Service, U.S. Department of the Interior, Anchorage.

Burger, C. V., R. L. Wilmot, and D. B. Wangaard. 1985. Comparison of spawning areas and times for two runs of Chinook Salmon *Oncorhynchus tshawytscha* in the Kenai River, Alaska. Canadian Journal of Fisheries and Aquatic Sciences 42:693-700.

Carlon, J. A. and D. Evans. 2007. Abundance of adult coho salmon in the Kenai River, Alaska, 1999-2003. Alaska Department of Fish and Game, Fishery Data Series No. 07-81, Anchorage.

Carlon, J. A., and M. Alexandersdottir. 1989. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1988. Alaska Department of Fish and Game, Fishery Data Series Number 107, Juneau, Alaska.

Cassidy, C. and G. Titus. 2003. Alaska's No. 1 Guide: The History and Journals of Andrew Berg 1869-1939. Spruce Tree Publishing. Soldotna, AK.

Conrad, R. H., and L. L. Larson. 1987. Abundance estimates for Chinook Salmon (*Oncorhynchus tshawytscha*) into the Kenai River, Alaska, by analysis of tagging data, 1986. Alaska Department of Fish and Game, Fishery Data Series Number 34, Juneau, Alaska.

Conrad, R. H. 1988. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1987. Alaska Department of Fish and Game, Fishery Data Series Number 67, Juneau, Alaska

de Laguna, F. 1934. The archaeology of Cook Inlet, Alaska. Philadelphia: University of Pennsylvania Press. 264 pages.

DeCicco, A. L. 1994. Mortality of Anadromous Dolly Varden Captured and Released on Sport Fishing Gear. Alaska Department of Fish and Game, Fishery Data Series No. 94-47, Anchorage, Alaska.

Eskelin, A., and D. Evans. 2013. Stock assessment of rainbow trout in the upper Kenai River, Alaska, 2009. Alaska Department of Fish and Game, Fisheries Data Series No. 13-22, Anchorage, Alaska.

Eskelin, A. 2016. Fisheries Biologist, Alaska Department of Fish and Game. Personal communication: by telephone. Soldotna, Alaska.

Fall, J. A., R. T. Stanek, B. Davis, L. Williams, and R. Walker. 2004. Cook Inlet customary and traditional subsistence fisheries assessment. U.S. fish and Wildlife Service, Office of Subsistence Management, Fisheries Resource Monitoring Program, Final Report (Study No. 03-045). Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 285. Juneau, Alaska. 245 pages.

Fall, J. A. et al. 2013. Alaska subsistence and personal use salmon fisheries 2010 annual report. Alaska Department of Fish and Game Division of Subsistence, Technical Paper No. 381, Anchorage.

Fall, J. A. et al. 2013. Alaska subsistence and personal use salmon fisheries 2011 annual report. Alaska Department of Fish and Game Division of Subsistence, Technical Paper No. 387, Anchorage.

Fall, J. A. et al. 2014. Alaska subsistence and personal use salmon fisheries 2012 annual report. Alaska Department of Fish and Game Division of Subsistence, Technical Paper No. 406, Anchorage.

Fall, J. A. et al. 2015. Alaska subsistence and personal use salmon fisheries 2013 annual report. Alaska Department of Fish and Game Division of Subsistence, Technical Paper No. 413, Anchorage.

Fraidenburg, M.E., and R.H. Lincoln 1985. Wild Chinook salmon management: an international conservation challenge. North American Journal of Fisheries Management 5:311-329.

FSB. 2007a. Transcripts of the Federal Subsistence Board proceedings. May 8 – 10, 2007. Office of Subsistence Management, USFWS. Anchorage, AK.

FSB. 2007b. Transcripts of the Federal Subsistence Board proceedings. December 11 – 13, 2007. Office of Subsistence Management, USFWS. Anchorage, AK.

FSB. 2009. Transcripts of the Federal Subsistence Board proceedings. January 13 – 15, 2009. Office of Subsistence Management, USFWS. Anchorage, AK.

FSB. 2013. Transcripts of the Federal Subsistence Board proceedings. January 22 – 24, 2013. Office of Subsistence Management, USFWS. Anchorage, AK.

FSB. 2015. Transcripts of the Federal Subsistence Board proceedings. January 21 – 23, 2015. Office of Subsistence Management, USFWS. Anchorage, AK.

Georgette, S. 1983. Ninilchik: Resource uses in a small, road-connected community of the Kenai Peninsula Borough In Resource use and socioeconomic systems: case studies of fishing and hunting in Alaskan communities. R. Wolfe and L. Ellanna, compilers. ADF&G, Division of Subsistence. Technical report number 61. Juneau, AK. Pages 170–187.

Hammarstrom, S. L., and L. L. Larson. 1986. Cook Inlet Chinook and Coho Salmon studies. Alaska Department of Fish and Game, Federal Aid in Fish Restoration and Anadromous Fish Studies, Annual Performance Report, 1985-1986, Project F-10-1, 27(S-32):40-88, Juneau, Alaska.

King, B. E. and J. A. Breakfield. 2002. Coded wire tagging studies in the Kenai River and Deep Creek, Alaska, 1998. Alaska Department of Fish and Game, Fishery Data Series No. 02-03, Anchorage, Alaska.

King, B. E. and J. A. Breakfield. 2007. Stock Assessment of Rainbow Trout in the Upper Kenai River, Alaska, in 2001. Alaska Department of Fish and Game, Fishery Data Series No. 07-14, Anchorage, Alaska.

Krauss, M. E. 1982. Native peoples and languages of Alaska. Map. Alaska Native Language Center, University of Alaska Fairbanks. Fairbanks, AK.

Lafferty, R., R. Massengill, T. Namtvedt, D. Bosch, and J. Hasbrouck. 2005. Stock status of coho salmon in Upper Cook Inlet. Alaska Department of Fish and Game, Division of Sport Fish, Unpublished Report to the Alaska Board of Fisheries, 2005, Anchorage, Alaska.

Larson, L.L. and P. Hansen. 2000. Stock Assessment of Rainbow Trout in the Middle Kenai River, 1999. Alaska Department of Fish and Game, Fishery Data Series No. 00-19, Anchorage, Alaska.

Lindsay, R. B., R. K. Schroeder, and K. R. Kenaston. 2004. Hooking Mortality by Anatomical Location and Its Use in Estimating Mortality of Spring Chinook Salmon Caught and Released in a River Sport Fishery. North American Journal of Fisheries Management 24: 367-378.

Loranger, A. 2016. Refuge Manager. Personal communication: phone. Kenai National Wildlife Refuge, USFWS. Soldotna, AK.

Loshbaugh, D. 1993. Natives Get Fishery to Preserve Culture. Homer News. Vol. 20. No.28: 1,14.

Miller, J. D., D. L. Burwen, and S. J. Fleischman. 2011. Estimates of Chinook Salmon passage in the Kenai River using split-beam sonar, 2007. Alaska Department of Fish and Game, Fishery Data Series Number 11-52, Anchorage, Alaska.

Nelson, D., D. Athons, P. Berkhahn, and S. Sonnichsen. 1999. Area management report for the recreational fisheries of the Kenai Peninsula, 1995–1997. Alaska Department of Fish and Game, Division of Sport Fish, Fishery Management Report No. 99-3. Anchorage, Alaska. 244 pages.

Olsen, J. B., S. J. Miller, W. J Spearman, and J. K. Wenburg. 2003. Patterns of intra- and inter-population genetic diversity in Alaskan coho salmon: Implications for conservation. Conservation Genetics 4, 557–569.

Olver, C.H., B.J. Shuter, and C.K. Minns. 1995. Toward a definition of conservation principles for fisheries management. Canadian Journal of Fisheries and Aquatic Sciences 52:1584-1594.

OSM. 2007. Staff analyses of Kasilof River Drainage and Kenai Drainage Harvest Regulations, Overview and Summary. Pages 37 – 171 *in* Federal Subsistence Board Meeting Materials. May 8 – 10, 2007. Office of Subsistence Management, USFWS. Anchorage, AK. 289 pp.

OSM. 2007. Staff analysis FP07-11, 12, 13, 27D, 29. Pages 143-170 *in* Federal Subsistence Board Meeting Materials. May 8-10, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska. 295 pp.

Palmer, D. E. 1998. Migratory behavior and seasonal distribution of radio-tagged Rainbow Trout in the Kenai River, Alaska. U.S. Fish and Wildlife Service, Kenai Fishery Resource Office, Alaska Fisheries Technical Report number 46. Kenai, Alaska. 112 pp.

Palmer, D.E. and B. E. King. 2005. Migratory patterns of different spawning aggregates of Dolly Varden in the Kenai River watershed. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Field office, Alaska Fisheries Technical Report number 86. Kenai, Alaska. 30 pp.

Recken, K and H. Pearson. 2016. Members, Personal communication: phone. Cooper Landing and Hope Federal Subsistence Community Group. Cooper Landing, AK.

Reimer, A. 2013. Migratory Timing and Distribution of Kenai River Chinook Salmon, 2010-2013, a Report to the Alaska Board of Fisheries 2014. Alaska Department of Fish and Game, Regional Information Report No. 2A13-06, Anchorage, Alaska.

Schill, D. L, and R. L. Scarpella. 1997. Barbed Hook Restrictions in Catch-and-Release Trout Fisheries: A Social Issue. North American Journal of Fisheries Management 17: 873-881.

SCRAC. 2007. Transcripts of the Southcentral Alaska Subsistence Regional Advisory Council proceedings. March,15, 2007. Anchorage, AK. Office of Subsistence Management, USFWS. Anchorage, AK

Stanek, R. 1980. Subsistence Fishery Permit Survey. Cook Inlet 1980. ADF&G, Division of Subsistence Technical Paper No. 30. Juneau, AK. 21 pages.

USFWS. 2007. Federal subsistence harvest by community summary for the Cook Inlet Area subsistence Fisheries, 2007. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2008. Cook Inlet area Federal subsistence fisheries 2008 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2009. Cook Inlet area Federal subsistence fisheries 2009 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2010. Cook Inlet area Federal subsistence fisheries 2010 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2011. Cook Inlet area Federal subsistence fisheries 2011 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2012. Cook Inlet area Federal subsistence fisheries 2012 summary. Unpublished report Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2013. Cook Inlet area Federal subsistence fisheries final 2013 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2014. Cook Inlet area Federal subsistence fisheries 2012 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2015. Cook Inlet area Federal subsistence fisheries final 2013 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

Vander Haegen, G.E., L.L. LeClair and E.W. White. 2001a. *Evaluate Tangle Nets for Selective Fishing*. Semi-Annual Progress Report, February 1, 2001. Washington Department of Fish and Wildlife. Olympia, WA.

Vander Haegen, G.E., K.W. Yi, C.E. Ashbrook, E.W. White and L.L. LeClair. 2001b. *Evaluate Live Capture Selective Harvest Methods*. Final Report for BPA Contract 2001-007-00. Washington Department of Fish and Wildlife. Olympia, WA.

WDFW. 2014. Grays Harbor and Willapa Bay Commercial Salmon Fisheries' Mortality Rates. http://wdfw.wa.gov/fishing/commercial/salmon/2014/ifsp_mortality_rates_final_report_033114.pdf. Retrieved July 2016.

Weiner, A. 2000. Kenai River habitat restoration and recreation enhancement project. *Exxon Valdez* Oil Spill. Restoration Project 99180. Final Report. Alaska Department of Natural Resources. Anchorage, AK. 54 pages.

Willete, T.M., T.McKinley, R.D. DeCino, and X. Zhang. 2012. Inriver Abundance and Spawner Distribution of Kenai River Sockeye Salmon *Oncorhynchus nerka* 2006-2008: A Comparison of Sonar and Mark-Recapture Estimates. Alaska Department of Fish and Game, Fishery Data Series No. 12-57, Anchorage, Alaska.

Williams, L., C. Venechuk, D. Holen and W. Simeone. 2005. Lake Minchumina, Telida, Nikolai, and Cantwell Subsistence Community Use Profiles and Traditional Fisheries Use. ADF&G, Div of Subsistence. Tech Paper No. 265. Juneau.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Oppose FP17-06&07. The subsistence community gillnet fishery on the Kenai River was executed summer 2016 and the impact to the fish species of concern was minimal. The gillnet authorized to harvest Sockeye Salmon is only 60 feet in length (10 fathoms) and in reality shorter because of the current creating a bow in the net. The net mesh size is intended to target Sockeye more than Chinook. The community gillnet is operated in the shallow section of the river away from migrating Chinook. The total area encompassed by the gillnet is very small and does not seem to pose any conservation concerns. There also has to be some allowance for incidental mortality because the fish are not going to be used. The Kenai Community Gillnet Fishery is beneficial to subsistence users, it has provided food and methods for cultural practices to be passed along to younger generations. Because of the timing of the experimental gillnet fishery, no concerns can be substantiated about the impacts of declining stocks of early and late run Chinook. The harvest of staging or spawning late-run Chinook is already permissible by Federal regulation and other user groups are harvesting in this area. Removing section J removes a meaningful subsistence preference. No one wants to see anything happen to any of the fish populations. Reporting is done on a timely basis. The Federal managers will take action if catches were ever too high. The Council recommends that the Kenai Community Gillnet Fishery continue, but be monitored very carefully if issues arise.

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

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposals FP17-06 and FP17-07: These proposals were submitted by the Cooper Landing and Hope Federal Subsistence Community (FP17-06) and staff of the U.S. Fish and Wildlife Service (USFWS; FP17-07). Both these proposals would remove .27(e)(10)(J) from current regulations that allow a community subsistence gillnet fishery on the Kenai River.

Background: During the 2015 Federal Subsistence Board regulatory cycle, Proposal FP15-10 was adopted at the Board's January 2015 public meeting. This proposal established a community gillnet fishery opportunity on the Kenai River for residents of Ninilchik. Over 700 requests for reconsideration have been submitted asking the Board to reverse or rescind this decision. The first community gillnet fishery on the Kenai River occurred in 2016 between July 29 and August 15, and harvest was 723 sockeye salmon, 6 pink salmon, 1 Chinook salmon, and 12 coho salmon. There were no rainbow or steelhead caught and 29 sockeye salmon, 1 pink salmon, and 2 Dolly Varden were released.

For harvest information from State opportunities, please see below.

Impact on Subsistence Users: Adoption of this proposal would prohibit residents of Ninilchik to take subsistence salmon and resident species in Federal public waters of the Kenai River with one community gillnet. Harvest may still be obtained under other legal Federal subsistence fishing methods, including dip net and rod and reel. Due to the more efficient nature of a gillnet compared to a dip net or rod and reel, elimination of a gillnet for residents of Ninilchik may decrease the chance that annual total harvest limits for the Kenai River Federal subsistence fishery would be reached by Ninilchik residents before residents of Hope or Cooper Landing could obtain their desired harvest amount. The degree of the reduced chance would be dependent on the specifications in the operational plan approved by the USFWS refuge manager.

Impact on non-Federally Qualified Subsistence Users: Because a gillnet is more efficient and the residents of Ninilchik have made minimal use of dip nets and rod and reel, if a gillnet were prohibited it is likely harvest by those users would decrease and more fish would be available for escapement or harvest by non-Federally qualified subsistence users.

Opportunities Provided by the State: Ninilchik is located in the Anchorage-Matsu-Kenai nonsubsistence area, (5 AAC 99.015(a)(3)) and subsistence fishing under state regulations is not permitted.

Personal use fishing, sport fishing, commercial fishing, and other fishing authorized by permit (i.e., educational fisheries) are permitted on Kenai River stocks.

1. The following personal use fisheries are available on the Kasilof and Kenai rivers to Ninilchik residents for the harvest of salmon (5 AAC 77.540), with an annual harvest limit of 25 salmon for the head of each household and 10 salmon for each additional household member (5 AAC 77.525):

a. Kasilof River Gillnet Personal Use Fishery. From 2011–2015 the total average annual harvest was 85 Chinook salmon and 21,398 sockeye salmon. Permit data indicate that Ninilchik households harvested an average of 113 sockeye salmon annually.
b. Kasilof River Dip Net Personal Use Fishery. From 2011–2015 the total average annual harvest was 77,245 sockeye salmon, and permit data indicate that Ninilchik households harvested an average of 396 sockeye salmon.
c. Kenai River Dip Net Personal Use Fishery. From 2011–2015 the total average annual harvest was 433,867 sockeye salmon, and permit data indicate that Ninilchik households harvested an average of 1,768 sockeye salmon.

2. Other fisheries authorized by permit (i.e., educational fishery; 5 AAC 93.200—5 AAC 93.235) that are used by Ninilchik residents to harvest salmon:
   a. Ninilchik Traditional Council Educational Fishery Permit, which allows a total salmon quota of 2,800 annually.
   b. Ninilchik Native Descendants Educational Fishery Permit, which allows a total salmon quota of 2,800 annually.
   c. Ninilchik Emergency Services Educational Fishery Permit, which allows a total salmon quota of 250 annually.

   In these fisheries from 2011–2015 the combined average annual harvest was 706 sockeye, 110 Chinook salmon, and 1,143 salmon (all species combined).

5 AAC 39.290. CLOSED WATERS. (a) ..commercial fishing for salmon is prohibited at all times within the streams and rivers of Alaska and within 500 yards of any salmon stream or over the beds or channels of streams and rivers of Alaska at all stages of the tide or as specified in regulations having particular application to designated streams or areas.

Conservation Issues: There are no stock concerns for Kenai River Chinook, sockeye, coho, or pink salmon as defined by the *Alaska Sustainable Salmon Fisheries Policy*. There are conservation issues with larger, older, 5-ocean tributary spawning Chinook salmon that arrive during the early-run fishery because they are no longer at historical abundance levels. To protect this stock, the Board of Fisheries has prohibited the harvest of these fish through size limit regulations in the sport fishery: the bag and possession limit for Chinook salmon in the Kenai River from January 1 through June 30 is one per day, one in possession, must be less than 42 inches in length or longer than 55 inches. This slot limit remains in effect even when the Kenai River early-run Chinook salmon escapement goal is met or exceeded.

In addition, rainbow trout are managed more conservatively in the Kenai River than under statewide regulations under the *Wild Trout Policy,* with closed seasons during historical spawning activity, and reduced bag, possession, and annual limits.

Recommendation: The State is NEUTRAL on these proposals, and NEUTRAL on the option recommended by the USFWS OSM to defer these proposals. Prohibiting the use of a gillnet in the Kenai River decreases the potential for harvest of a stock of Chinook salmon that displays unique genetic traits and is

currently below historical abundance levels. The State supports the Ninilchik Traditional Council's desire to participate in subsistence activities that are meaningful to them under the Federal subsistence regulations, while understanding the conservation concerns raised by the USFWS and the concerns raised by Hope and Cooper Landing to continue to meet their subsistence harvest goals.

While the 2016 season operational plan was limited in scope due to the late timing of the Special Action, the State was pleased with the harvest numbers, especially the minimal incidental catch and harvest of Chinook salmon and resident species. The State recommends that the net be closely attended at all times as it was this past season.

It is possible that elimination of the community gillnet net is not necessary to address these conservation concerns if an approved operational plan contains seasons that would avoid encounters with 5-ocean tributary spawning Chinook salmon and actively spawning rainbow trout. The State is ready to provide its fisheries management and biological expertise in the development and review process for future operational plans.

WRITTEN PUBLIC COMMENTS

To the Members of the Southcentral Regional Advisory Council:

Re: Support of FP17-07

As a full time resident of Cooper Landing, I am writing to express support for the approval FP17-07. This proposal by the U.S. Fish and Wildlife Service to end the Ninilchik Tribal Council's operation of a community gillnet on the Kenai strongly supports the intentions, the spirit and the requirements of ANILCA §802. FP17-06 is
1. "consistent with sound management principles and the conservation of health populations of fish and wildlife", and
2. "consistent with management of fish and wildlife in accordance with recognized scientific principles". (ANILCA §802)

Allowing the use of a non selective means of fishing such as a gillnet violate section §815 of ANILCA in that a gillnet

> "permits the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the healthy (fish) populations". (ANILCA §815)

Finally, FP17-07 is also consistent with ANILCA §801, subsection (4):

"In order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary . . . **to protect and provide the opportunity for continued subsistence uses on the public land by Native and non-Native rural residents."** (ANILCA §801, subsection (4))

The operation of a gillnet on the Kenai River **threatens the healthy populations of fish in the Kenai River** and thereby aggrieves our priority, as subsistence users in Cooper Landing, to the continued use of these fish to maintain a subsistence tradition and lifestyle.

Sincerely,
Kathryn L. Recken
19567 Rusty's Way
PO Box 747
Cooper Landing, AK 99572

krecken@gmail.com

May 17, 2016

Michael Adams
PO Box 847
Cooper Landing, AK 99572

Attn: Theo Matuskowitz
Federal Subsistence Board
Office of Subsistence Management
1011 E. Tudor Rd., MS-121
Anchorage, Ak 99503-6199

As a Cooper Landing resident and a subsistence dip net and rod and reel fisherman I support proposal FP17-06 and FP17-07. A meaningful priority for subsistence users from the three subsistence communities on the Kenai Peninsula already exists through selective harvest methods with rod and reel and dip netting priority. As a subsistence user I can say with absolute certainty that existing priority for rod and reel and dip net fishing works.

To ignore sound science and conservation concerns to implement an unnecessary and indiscriminate method of harvest is shortsighted and the implementation of the gill net fishery could threaten the future of our fishery and therefore our way of life. As a member of a recognized subsistence community that relies heavily on the fish stocks of the Kenai river I feel like my community has been ignored throughout the process and our subsistence priority is being threatened by ill-conceived downstream non-selective methods and means.

The existing language allowing a gill net fishery on the Kenai river ignores conservation concerns and will undoubtedly result in the mortality of species of concern. Using a gill net will also result in the capture and mortality of fish outside the legal sizes and limits which is a violation of law. Prior legal precedent has been established upholding conservation concerns and limits within subsistence regulation as demonstrated in Ninilchik Traditional Council v. United States.

ANILCA's goals are "to preserve wilderness resource values" and "to provide for the maintenance of sound populations of . . . wildlife." In NTC v. US the Ninth Circuit emphasized that Congress qualified its preference for subsistence use by requiring restrictions, if necessary, for the "continued viability" of such populations: "Subsistence living, although at the heart of ANILCA, is not a per se preemptive statutory priority."

Please approve FP17-06 and FP17-07 for the sake of our fishery and the future of our subsistence lifestyle.

Sincerely,

Michael Adams
38053 Snug Harbor Road
Cooper Landing, AK 99572

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd:

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 2:27 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Mike Amos** <indyndusty@gmail.com>
Date: Thu, May 26, 2016 at 7:01 AM
Subject:
To: "subsistence@fws.gov" <subsistence@fws.gov>

I too support Cooper Landing/Hopes concerns not to allow gill netting on the Kenai River. Thank you
Mike Amos Cooper Landing resident.

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Cooper Landing/Hope Subsistence Proposal

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:59 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Natalia Aulenbacher** <natalia@century21.com>
Date: Thu, May 26, 2016 at 10:32 AM
Subject: Cooper Landing/Hope Subsistence Proposal
To: Subsistence@fws.gov

Hello,

I am writing to voice my support for the Cooper Landing/Hope Subsistence proposal to not allow gill nets on the Kenai River. It is very important to conserve the resources we have. I lived in Cooper Landing for many years and fished the Kenai River frequently as a guide, the gill nets will not only affect the salmon negatively, but also will negatively impact other resources.

Thank you,
Natalia Aulenbacher

--

www.alaskarealestatebynatalia.com

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Kenai river

2 messages

AK Subsistence, FW7 <subsistence@fws.gov> Fri, May 20, 2016 at 10:14 AM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: batkinson1@juno.com <batkinson1@juno.com>
Date: Tue, May 17, 2016 at 6:31 PM
Subject: Kenai river
To: subsistence@fws.gov

Please don't allow gill nets on the Kenai!
I beg you not to do this.
It's just not right!
Thank you,
Barbara Atkinson
Cooper Landing resident since 1979.

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd:

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:34 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Dominic Bauer** <kingfisherak@gmail.com>
Date: Tue, May 24, 2016 at 6:52 PM
Subject:
To: subsistence@fws.gov

To Whom it may Concern ;

Seriously? Gill nets in the Kenai river is absurd.
Too much pressure on this resource has taken its toll. I have lived in Cooper Landing for 23 years and have fished the drainage extensively. I guided commercially for 8 years and have an intimate understanding and knowledge of the fishery.
If you want to further reduce the fish counts and increase the number of user conflicts...go for it.

Concerned,

Dominic Bauer

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: subsistence and the health of Kenai River and kasilof River fisheries

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Wed, May 4, 2016 at 5:45 PM
To: Stewart Cogswell <stewart_cogswell@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **John Belcik** <jhpbj@yahoo.com>
Date: Wed, May 4, 2016 at 4:49 PM
Subject: subsistence and the health of Kenai River and kasilof River fisheries
To: "subsistence@fws.gov" <subsistence@fws.gov>
Cc: John Belcik <jhpbj@yahoo.com>

Hi...I am a resident of cooper landing and enjoy the idea of subsistence fishing and hunting. .. I catch my 25 fish easily every year with rod and reel alone and see no need to use a dip net or for sure a gill net. A gill net is most atrocious means as it has no regards to the life of the river. Conservation of the environment is in my opinion the only regard in all decisions concerning management of the fishery... indiscriminately killing everything that hits a net is the way to eventual starvation. I am appalled that the tribal council has so little regard to the health of the river. To put Alaskan tribes into the same category of north American Indians of the lower forty eight is .absurd. The American indian was all about conservation while the Alaskan tribes are all about killing everything.....and are as bad or worse as the buffalo hunters of the plains who wiped out the beasts in a few years...

I am actually against dip netting as well but at least it allows the survival of incidental catch .....and so I tolerate those who want to catch their yearly food in one outing with use of dip net.....with limit of six fish I only need fish a few dozen hours over a few days to catch all I need with rod and reel.

I am holding my representatives and the feds to uphold the health of my river over greed and laziness of those who think that gill netting the river is necessary to catch enough food for ones family. I am ashamed of the tribes that even propose such a thought...

I actually go a bit further. I think that a persons income should be a factor as well...I get sick at the stomach when I see people drive down to the river to dip net with many thousands of dollars of new trucks four wheelers, gear etc....and claim they need to fish with nets. Come on...that takes away from the commercial fishermen who can put the fish into the super market where obviously you have enough money to buy the same fish. Many of the small commercial fishermen are hurting....

the one other thing I hate to see and that has an effect on the river is that sport fishermen are allowed to catch and release sockeye and coho salmon....catch your limit and leave the river and its fish at peace.

of course my main concern is that if we allow gill nets into the river we will destroy the river in just a few years....and there might be no fish for anyone.

respectfully,
John Belcik
Cooper Landing Alaska

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gillnetting Kenai

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 2:32 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <alaskabray@cs.com>
Date: Thu, May 26, 2016 at 9:01 AM
Subject: Gillnetting Kenai
To: subsistence@fws.gov

I am a subsistence fisherman from Cooper Landing , Alaska.

I am opposed to the gill netting of the Kenai River, Alaska

It is counter to sound resource management. The gill nets do not discriminate between the targeted species, sockeye salmon, and the critically endangered Chinook salmon. It captures and kills, unlike dipnetting which allows selective catch and release. Additionally the world famous trophy Kenai Rainbow Trout are imperilled by gill netting

Stop the gillnets in the Kenai.

Phil Bray
PO 806
Cooper Landing Alaska
99572

Sent from AOL Mobile Mail
Get the new AOL app: mail.mobile.aol.com

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gill nets on Kenai

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Wed, May 4, 2016 at 5:47 PM
To: Stewart Cogswell <stewart_cogswell@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

--------- Forwarded message ---------
From: <alaskabray@cs.com>
Date: Wed, May 4, 2016 at 4:58 PM
Subject: Gill nets on Kenai
To: subsistence@fws.gov

I am a subsistence fisher/hunter from Cooper Landing, Alaska.

I am opposed to the use of Gill Nets on the Kenai River for subsistence fishing.

Indiscriminate harvest of rainbow trout, dolly varden trout and the critically threatened king salmon fishstocks by gill netting is counter to the conservation of species that is the bedrock of sound management practices

Keep the gill nets out of the Kenai

Philip Bray
Cooper Landing
Alaska

Sent from AOL Mobile Mail
Get the new AOL app: mail.mobile.aol.com

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd:

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:35 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **josiah brown** <brownjosiah@hotmail.com>
Date: Tue, May 24, 2016 at 7:04 PM
Subject:
To: "subsistence@fws.gov" <subsistence@fws.gov>

Gill nets on the Kenai is so 1970s c'mon get with it before it's too late.

Sent from my iPhone

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gillnetting on the Kenai

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:33 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <Ngcornett@aol.com>
Date: Tue, May 24, 2016 at 6:08 PM
Subject: Gillnetting on the Kenai
To: subsistence@fws.gov
Cc: sandrakey8@msn.com

No, no, no. Gillnetting on the Kenai is one of the worst ideas imaginable. I am totally opposed to it. There is no way to control the species caught, and there will inevitably be dead bycatch. I think most of Cooper Landing, which after all has the most subsistence fishermen, is as opposed as I am. Don't do this damaging thing.

Dean Cornett
37886 Snug Harbor Road
Cooper Landing, AK 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Comments on Subsistence Fishing/Gillnetting on the Kenai River

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Mon, May 16, 2016 at 8:42 AM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <Ngcornett@aol.com>
Date: Mon, May 16, 2016 at 6:49 AM
Subject: Comments on Subsistence Fishing/Gillnetting on the Kenai River
To: subsistence@fws.gov

I am unalterably opposed to any gillnetting on the Kenai River by anyone for any type of fish, including salmon. Between climate change and other factors, the resource is already under threat. We do not need this additional threat to one of the world's great salmon rivers.

Nina Cornett
37886 Snug Harbor Road
Cooper Landing, AK 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: DO NOT ALLOW GILL NETS IN THE KENAI RIVER

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:49 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Keith Doroff** <kmdoroff@hotmail.com>
Date: Thu, May 26, 2016 at 9:19 AM
Subject: DO NOT ALLOW GILL NETS IN THE KENAI RIVER
To: "subsistence@fws.gov" <subsistence@fws.gov>

Hello:

As a Cooper Landing resident for almost 20 years, I was appalled to hear that the Ninilchik tribe was granted permission to put gill nets in the Kenai River. As a fisherman and a person that enjoys the great outdoors of Alaska, I was shocked to hear, after the fact, that the Federal government gave the Ninilchik tribe permission to harvest fish using gill nets. I have a few questions about this decision:

If the Ninilchik tribe is allowed to use gill nets, then who else will be giving permission to us gill nets?

What is the Ninilchik tribe doing with the fish they catch?

How many fish are they allowed to catch?

What is the Ninilchik tribe doing with the fish they catch accidently?

What species of Salmon are they allowed to catch and keep?

Why was the Ninilchik tribe given a gill net permit when there was little, to no public comment period?

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: FP17-06

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:41 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Jacqueline Greenman** <jacanmar@arctic.net>
Date: Wed, May 25, 2016 at 12:52 PM
Subject: FP17-06
To: subsistence@fws.gov

Attention:Theo Matuskowitz
Federal Subsistence Board

RE: Proposal by Cooper Landing /Hope Subsistence Community submitted to change the Federal Subsistence Regulation to disallow the use of a gill net on the Kenai River.

I have been an Alaska resident for 58 years and have owed land in Coooper Landing since 1958. Over the many years I have obtained my annual supply of salmon by rod/reel and /or dip netting without problem. I am concerned about allowing dip nets in the Kenai River and the devastating effect it will have on the supply of all fish over the long term.It is important to manage our fisheries and conserve the the resources we have for the present and the future generations.

I totally support the Cooper Landing/Hope proposal to reverse the regulation allowing gill netting in the Kenai River. Lets preserve our resources. Thank you.

Anna Belle Engbers
P.O.Box 629
Cooper Landing,Alaska 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Opposition to Kenai River gill netting

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:54 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

--------- Forwarded message ---------
From: **Frank** <kobuk21@ymail.com>
Date: Thu, May 26, 2016 at 10:15 AM
Subject: Opposition to Kenai River gill netting
To: "subsistence@fws.gov" <subsistence@fws.gov>

I strongly oppose allowing gill netting in any form on the Kenai River. There are many users and beneficiaries of this fishery encompassing all racial and ethic groups that citizens of our great State. Allowing one ethnic group privilege in the harvest of our resources at the expense of all others is not only just plain wrong but contrary to the principles of both our national and state constitutions on upon which our diverse citizenry rests. Further goll netting is indiscriminate in the species it harvests. What is the point of regulation specific to individual species renewal if indiscriminate means of harvest is permitted?

Frank Feichtinger
P.O. Box 935
Cooper Landing, AK 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gill netting

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:43 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Katie Feichtinger** <kfrannyf@gmail.com>
Date: Wed, May 25, 2016 at 1:32 PM
Subject: Gill netting
To: subsistence@fws.gov

To whom it may concern,

I am a subsistence fishing permit holder and a resident of Cooper Landing. I dip net at the Russian River Falls with my husband, Dan Osborn, and we collect about 8 to 20 red salmon per season. We believe that allowing gill nets on the Kenai River would be bad for the entire fishery, especially the Rainbow Trout and The King Salmon.

I support the Cooper Landing/Hope subsistence proposal to not allow gill nets on the Kenai River. It is important to conserve the resources we have.

Katie Feichtinger
Kfrannyf@gmail.com
(907)-599-0313
Sent from my iPad

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Subsistence Gillnet on Kenai

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:45 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Fox Family** <gcfox@gci.net>
Date: Wed, May 25, 2016 at 3:42 PM
Subject: Subsistence Gillnet on Kenai
To: subsistence@fws.gov

Hi,

We have a home in Cooper Landing and wish to express that I do not approve of subsistence gill netting on the Kenai River. We support the Cooper Landing/Hope proposal to reverse the decision to allow gill nets on the Kenai River. The Kenai River watershed fisheries are too important to risk losing or weakening any of the fisheries to subsistence gill netting.

Thank You for considering our concern,

Jerry and Carol Fox

PO Box 1151

Girdwood Ak

99587

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Cooper Landing Dip Net

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:36 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Thomas Gossard** <TGossard@kpbsd.k12.ak.us>
Date: Tue, May 24, 2016 at 8:45 PM
Subject: Cooper Landing Dip Net
To: "subsistence@fws.gov" <subsistence@fws.gov>

To whom it may concern,

I am a subsistence dip netter at the Russian River Falls in Cooper Landing, Alaska, and I support the Cooper Landing/Hope subsistence proposal to not allow gill nets on the Kenai River. It is important to conserve the resources we have. Dip netting and fishing at the falls is a very productive method to obtain the 40 sockeye salmon I need for my family.

Thomas D. Gossard

18285 Lisa Ave

Cooper Landing, AK 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Kenai River Gillnetting

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:35 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Mike Gould** <mike@excelak.com>
Date: Tue, May 24, 2016 at 8:03 PM
Subject: Kenai River Gillnetting
To: "subsistence@fws.gov" <subsistence@fws.gov>

I am opposed to gillnetting on the upper Kenai River, other than a possible demonstration project showing traditional ways of harvesting. The time for this type of subsistence fishing on such a road accessible river is past.

Mike A. Gould

Excel Construction

(907) 522-5554 Main

(907) 270-7005 Direct

(907) 244-3347 Cell

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Kenai River subsistence comment

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:00 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Melissa Graham** <mcurrygraham@hotmail.com>
Date: Thu, May 26, 2016 at 11:39 AM
Subject: Kenai River subsistence comment
To: "subsistence@fws.gov" <subsistence@fws.gov>

To Whom It May Concern,

I am writing in support of the Cooper Landing/Hope subsistence proposal not to allow gill nets on the Kenai River.

Thank you,

Melissa Graham

35405 Just Bears Ct

Cooper Landing, AK

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Cooper Landing/Hope proposal

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:32 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Ken and Kate Green** <kennkay@arctic.net>
Date: Tue, May 24, 2016 at 5:54 PM
Subject: Cooper Landing/Hope proposal
To: subsistence@fws.gov

The Cooper Landing/Hope proposal to reverse the regulation allowing gill nets in the Kenai River is in my opinion not a good idea. It is highly unnecessary and gill nets on the river will complicate the fishing scenario immensely. Subsistence fishing can be done with dip nets or even traditional fish wheels in spots, but gill nets would be detrimental to the health of the river. By catch for instance in gill nets will be killed rather than as in fish wheels remain living so they can be released back into the river. Impediment of river other usage due to gill nets is also a great issue on the Kenai River.

Allowing gill netting on such an important, popular and seasonally crowded tourist destination river goes against the grain of good river management, fishing science and common sense.

I greatly support the Cooper Landing/Hope subsistence proposal to not allow gill nets on the Kenai River. It is important to conserve the resources we have.

Thank you,

Ken Green and Kate Thomas/Green

19350 Snug Harbour Road
Cooper Landing 99572
(907) 595-1643

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: FP17-06 ,

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:40 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Jacqueline Greenman** <jacanmar@arctic.net>
Date: Wed, May 25, 2016 at 12:22 PM
Subject: FP17-06 ,
To: subsistence@fws.gov

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

Re: FP 17-06 Proposal by Cooper Landing/Hope Subsistence Community submitted to change the Federal Subsistence Regulation to disallow the use of a gill net on the Kenai River.

I have been a resident of Alaska since 1958, and a land owner in Cooper Landing since 1978. I have fished both with rod and reel or dip net for my my annual fishing needs since arriving in Alaska. When unable, a friend has done for me by proxy. This has always enabled me to meet the family needs by these traditional means. All of my many friends and acquaintances also meet their needs through traditional means (rod /reel and dip netting).

The Kenai River is beautiful and a wonderful resource for Alaska salmon, as well as other species of fish. It is important that it be managed to maintain this resource for all Alaska residents for generations to come. To allow gill nets on the Kenai River for families to obtain their annual supply is unnecessary when proven that needs can be met by rod/reel or dip net. This would have a devastating effect on the future of fish in the Kenai River.

I totally support a "yes" to disallow use of gill nets on the Kenai River ,as well as the Kasifof (FP 17-07). Thank you for your attention to this important issue.

Jacqueline A. Greenman
P..Box 629
Cooper Landing, Alaska 99572

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Comment RE: FP17-06

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:46 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Hanson Ann** <annfhanson@att.net>
Date: Wed, May 25, 2016 at 5:43 PM
Subject: Comment RE: FP17-06
To: subsistence@fws.gov

To the Board,

We are opposed to a gill net on the Kenai River. We ask that the board change the current regulation to read no gill net on the Kenai River, as stated in FP17-06. We believe that a gill net on the Kenai River will destroy the current fisheries. We further believe there are sufficient opportunities to subsistence fish without using non-selective gear, such as a gill net. We need to preserve & protect our current resources.

We are confident that the board will reconsider their stance on this issue & vote to accept the change of regulation as stated in FP17-06 & FP17-07.

Ann & Brad Hanson
35360 Just Bears Court
PO Box 630
Cooper Landing, Ak 99572

ph. 907-595-3530

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Cook Inlet Area Fisheries proposals

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:04 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **George Heim** <gheim2000@gmail.com>
Date: Thu, May 26, 2016 at 7:33 PM
Subject: Cook Inlet Area Fisheries proposals
To: subsistence@fws.gov

To Whom It May Concern:

I am writing to express support for FP-17-06, FP-17-07, & FP-17-08 and to oppose FP-17-09, & FP-17-10.

The Cooper Landing Advisory Committee held a meeting on May 14th to discuss these proposals. Due to predictable schedule conflicts for the
AC members at this time of year and the short notice between publishing the proposals and due date for comments, we were not able to convene a quorum. However, the members present were unanimous in supporting proposals to remove gill nets from the Kenai and to close a section of the Kenai River that is important for Chinook spawning activities and to oppose liberalization of gill nets in the Kasilof and to expand gill nets in the Kenai.

We were concerned about bycatch of non-target species in both waters including rainbow trout, dolly varden and king salmon in the Kenai and steelhead and king salmon in the Kasilof. Of particular concern was the possibility that rainbow trout in the Kenai and Steelhead in the Kasilof would be caught in the nets. Since there is no retention allowed for these species in those waters, and since any fish in a gill net is very likely to be killed persons operating the nets would be in violation of both State and Federal regulation and subject to penalties. Obviously, this is not a desirable situation. Even if a fish is released from the net alive, it will have been injured and is likely to die after release. This would be wanton waste and should not be allowed.

Sincerely,

George Heim, President

Cooper Landing Advisory Committee to ADF&G

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd:

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:01 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Ladonna Herbert** <ladonnaherbert@gmail.com>
Date: Thu, May 26, 2016 at 12:50 PM
Subject:
To: subsistence@fws.gov

I support the Cooper Landing/ Hope subsistence proposal to not allow gill nets on the Kenai River. It is important to conserve the resources we have.
Ladonna Herbert 907 595 1556, 17701 Bean Creek Road, Cooper Landing, Alaska 99572. (PO Box 518)

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Support for FP 17-06

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:28 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <rebew@arctic.net>
Date: Tue, May 24, 2016 at 3:19 PM
Subject: Support for FP 17-06
To: subsistence@fws.gov

I am a qualified federal subsistence user. I support Proposal FP 17-06 "Proposal to Change Federal Subsistence Regulations". This proposal will ensure the conservation of rainbow trout and dolly varden from gillnet fishing. In addition, it will ensure the protection of riparian habitat along the fragile shores of the Kenai River.

Janet Bentley Weber
PO Box 738
Cooper Landing, AK 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gill netting the Kenai River.

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:25 PM
To: Gene Peltola <gene_peltola@fws.gov>, George Pappas <george_pappas@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **jen** <jen@krff.com>
Date: Tue, May 24, 2016 at 2:28 PM
Subject: Gill netting the Kenai River.
To: "subsistence@fws.gov" <subsistence@fws.gov>

I am a 12 year Cooper Landing local, and a lifetime Alaskan resident. I was brought up by a family who taught me to respect people, animals and the land we live on. Both my husband and I work hard year round to try and provide for our son and raise him with the same morals and respect we were raised with.

I grew up fishing the Kenai River and currently manage a outfitting business operating on it. Yes indeed, I have watched things change here, some for the better, some for the worse. What I can say is that as a whole, everyone has been working hard to provide rights for all user groups to continue to use these waters. Obviously our main goal should always be the conservation of the river first and foremost.

In regards to gill netting being allowed on the Kenai, and especially through "Rainbow alley", I am adamantly opposed. I am in favor of substance as a whole, when practiced in a way that is responsible for the current generation, and for generations to come. But unfortunately the proposal to gill net on the Kenai is being done in a manner that is not only going to cause great conflict with other user groups, but that will cause devastating effects to the river as we know it.

The users proposing this have more than adequate opportunity to fulfill their substance needs in multiple ways/locations, and data shows that they have barely used these opportunities. By no means can they not provide for themselves, families or village, they've just chosen not to use what is currently available.

It makes no sense to allow another area to be harvested with gill nets that will not only catch the Kings that we have all been working so hard to preserve, but the bi-catch of some of the biggest Rainbow Trout in the system, as well as Dolly Varden and the occasional white fish.

To gill net the Kenai and call it substance is absurd at this point in time. Nothing about this practice is remotely sustainable for this river, nor is it even necessary. It is mind blowing as someone who was taught to respect nature for myself and the future that this is even on the table. One can argue that being an outfitter, we are part of the problem. But with that said, I would really like to believe that we are part of the solution. We take people out, we expose them to nature, and we educate them in hopes that they will learn to love and respect this, and so may other rivers, as much as we do. For the future generations. For sustainability.

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Kenai River gill nets

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:05 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

--------- Forwarded message ---------
From: **Dennis Johnson** <dbj@ak.net>
Date: Thu, May 26, 2016 at 8:07 PM
Subject: Kenai River gill nets
To: subsistence@fws.gov

I support the Cooper Landing/Hope subsistence proposal to NOT ALLOW gill nets in the Kenai River. Since they're not discriminatory as to what they kill, it makes no sense in a river that is considered to be world class for trout and char fishing. There are several other options available for harvesting salmon for subsistence purposes. Why risk the future of the Kenai with the use of gill nets.

Dennis Johnson
37884 Snug Harbor Rd.
Cooper Landing, 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Subsistence

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:00 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Ed Kahles** <edkahles@gmail.com>
Date: Thu, May 26, 2016 at 12:06 PM
Subject: Subsistence
To: subsistence@fws.gov

I support the Cooper Landing/Hope subsistence proposal to not allow gill nets on the Kenai River. It is important to conserve the resources we have."

Ed Kahles
PO BX 506 Cooper Landing AK
99572

--
OSM is in receipt of your comments.

Thank you

To the Members of the Southcentral Regional Advisory Council:

Re: Support of FP17-06

As a full time resident of Cooper Landing, I am writing to express support for the approval FP17-06. This proposal by the Subsistence Community of Cooper Landing and Hope to end the Ninilchik Tribal Council's operation of a community gillnet on the Kenai strongly supports the intentions, the spirit and the requirements of ANILCA §802. FP17-06 is
1. "consistent with sound management principles and the conservation of health populations of fish and wildlife", and
2. "consistent with management of fish and wildlife in accordance with recognized scientific principles". (ANILCA §802)

Allowing the use of a non selective means of fishing such as a gillnet violate section §815 of ANILCA in that a gillnet

> "permits the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the healthy (fish) populations". (ANILCA §815)

Finally, FP17-06 is also consistent with ANILCA §801, subsection (4):

"In order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary . . . **to protect and provide the opportunity for continued subsistence uses on the public land by Native and non-Native rural residents."** (ANILCA §801, subsection (4))

The operation of a gillnet on the Kenai River **threatens the healthy populations of fish in the Kenai River** and thereby aggrieves our priority, as subsistence users in Cooper Landing, to the continued use of these fish to maintain a subsistence tradition and lifestyle.

Sincerely,
Kathryn L. Recken
19567 Rusty's Way
PO Box 747
Cooper Landing, AK 99572

krecken@gmail.com

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Opposed to gill netting on the Kenai River

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:53 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ---------
From: **Alec Lamberson** <alecl@arctic.net>
Date: Thu, May 26, 2016 at 9:45 AM
Subject: Opposed to gill netting on the Kenai River
To: subsistence@fws.gov

I am a long time Cooper Landing resident. I am opposed to gill netting on the Kenai River.
I feel it is a non-discriminatory method of fishing and the by-catch (being trout, char, and non-target species of Salmon) would be harmed in the process. Subsistence fishing is available on the lower river and the Russian River falls. The later being a very easy place to catch sockeye without harming any other species.

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gill Netting on the Kenai River

AK Subsistence, FW7 <subsistence@fws.gov> Fri, May 13, 2016 at 9:10 AM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Nicholas LeMieux** <nmlemieux@yahoo.com>
Date: Thu, May 12, 2016 at 9:59 PM
Subject: Gill Netting on the Kenai River
To: "subsistence@fws.gov" <subsistence@fws.gov>

I have been a subsistence user on the Kenai River for many years, using the dip netting and rod-reel methods. I am totally against any use of gill nets on the Kenai for any reason. It is a conservation issue. non selective methods of harvest should never be permitted on a river such as the Kenai that has a large sportsman and subsistance use. I am a resident of Cooper Landing! Nick LeMieux-nmlemieux@yahoo.com

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gillnetting on the Kenai

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:54 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Stephanie Ferry** <ferry.steph@gmail.com>
Date: Thu, May 26, 2016 at 9:53 AM
Subject: Gill netting on the Kenai
To: subsistence@fws.gov

Hello,
I am a business and home owner in Cooper Landing, I also volunteer on the Cooper Landing Chamber of Commerce. I am a full time resident who is strongly opposed to allowing gill netting on the Kenai River. I am completely in support of the Cooper Landing and Hope subsistence proposal to not allow gill nets on the Kenai River.

I partake in subsistence fishing at the Russian River falls and view this method as very effective. I have never caught another species except the one I was targeting, in my dip net. And, luckily, if I were to catch another species, I would be able to easily release the fish. this is not the case with the gill nets. The indiscriminate nature of fishing with gill nets will put other already at risk species, at further risk of devastation. There are many rules that seem to point towards the idea of conservation on the Kenai River, and I am sincerely shocked that on this highly regulated river, there is even a consideration of allowing such a method, even in the name of "Subsistence". When fishing, we must release rainbow trout 18 inches and over, we must not use bait for king salmon fishing, we must release kings without lifting them out of the water, we must not fish for kings on Saturday, Tuesday and Thursdays, we must not guide on Sundays, we must not use motors on Mondays…the list goes on and on. These are rules that our guides obey and our private sport fishermen observe as well. Many of those rules are in place to protect the King Salmon species. If you are going to allow gill netting on the Kenai, you may as well just allow retention of kings, bait fishing and retention of rainbow trout any size. Gill nets will be catching these species, and without an easy way to release them into the wild, they will die, so there go your rules and regs that you've worked so hard to enforce and pushed us all to observe. I do understand the difference between subsistence and sport fishing, however, I also believe that both efforts should have the utmost respect for the resource and the ongoing sustainability of the species they are targeting.

I believe there are plenty of other methods to obtain subsistence fish, many of which it seems the ones who want to gill net, are not even taking advantage of at this time. I am fully in support of subsistence fishing, especially for rural communities such as Hope, Ninilchik and Cooper Landing. However, I am also in support of making good conservation minded decisions which have lasting effects on generations to come. I would encourage those who are pushing to use gill nets, to stop and consider the effects on the other communities who rely on tourism as well as subsistence fishing for their livelihoods. We live here too, we want our resources to thrive for many years to come. Frankly, I think that gill netting the Kenai is a selfish and short term solution.

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Kenai River Gill Nets

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:21 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Timothy Lesmeister** <timlesmeister@gmail.com>
Date: Tue, May 24, 2016 at 11:39 AM
Subject: Kenai River Gill Nets
To: subsistence@fws.gov

I am writing to voice my disapproval of any form of gill netting in the Kenai River. i have been coming to Alaska from my home in Minnesota for many years to take advantage of the excellent fishing in the Kenai and would hate to see it ruined by gill nets. My opinion that this resource would be devastated by gill nets is from watching what nets have done to other resources in the lower 48 and I believe the same would happen to the Kenai. Use Lake Mille Lacs as an example. When treaty rights were reaffirmed by the Supreme Court in the late nineties some tribes chose to gill net Mille Lacs. It is subsistence netting but the gill nets ruined this once vibrant lake. Compare this to Wisconsin where the tribes only utilize spears and dip nets to harvest walleyes and pike for subsistence. Those lakes within the treaty boundaries are maintaining their fish populations and continue to have a large tourist presence. Mille Lacs resorts on the other hand are going broke and anglers have quit coming to what was once THE major tourist destination in the state. There have been many other examples of lakes that have been devastated by gill nets. Lake of the Woods, Red Lake, Lake Erie and now Lake Superior. The subsistence netting for lake trout around the Apostle Islands has caused major restrictions to sport anglers that has had a huge impact on tourism in that region.

So please, when you consider allowing gill nets into a resource that has such a major economic impact on towns like Cooper Landing, Sterling, Soldotna and Kenai realize that once this happens and the river is adversely impacted, word will spread quickly and negatively affect those that rely on the quality fishing there to make a living.

Thank You for an opportunity to comment

Tim Lesmeister
Minnetonka, MN

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Kenai River Gill Netting

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:58 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Kathryn Lessard** <klessard62@gmail.com>
Date: Thu, May 26, 2016 at 10:25 AM
Subject: Kenai River Gill Netting
To: subsistence@fws.gov

Gill netting on the Kenai River should be repealed. Efforts in place to manage King Salmon and Rainbow trout stock would be undermined. Personal use dip net fisheries allow all to harvest ample sockeye salmon.

Kathryn Lessard
PO Box 557
Cooper Landing, AK
99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Kenai River Gill Net

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:50 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **THOMAS LESSARD** <tlessard@mtaonline.net>
Date: Thu, May 26, 2016 at 9:22 AM
Subject: Kenai River Gill Net
To: subsistence@fws.gov

I hunt, fish and trap near Sqilantnu and I am asking to repeal the Kenai River gill netting near Q'es Dudilent. It seems there are better ways to get the sockeye and not bother the Kings and Rainbows. Thank You.
Respectfully,
Tom Lessard
PO Box 557
Cooper Landing, AK 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gill Nets in the Kenai

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:58 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **J L** <jeremy8978@gmail.com>
Date: Thu, May 26, 2016 at 6:37 AM
Subject: Gill Nets in the Kenai
To: subsistence@fws.gov

As a Cooper Landing resident and a federal subsistence user, I feel that Gill Nets in the Kenai will do great harm to our precious resource.

Jeremy Lewis

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Cooper landing/hope subsistence proposal

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 2:31 PM
To: Gene Peltola <gene_peltola@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Megan Arnoldy** <marnoldy10@georgefox.edu>
Date: Thu, May 26, 2016 at 8:59 AM
Subject: Cooper landing/hope subsistence proposal
To: subsistence@fws.gov

I support the Cooper Landing/Hope subsistence proposal to not allow gill nets on the Kenai River. It is important to conserve the resources we have. And I don't believe that allowing gill nets in the Kenai does that. It is ruining our rivers.

Megan Martin
51828 Seward Hwy
Moose pass, Ak
99631

Sent from my iPhone

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Kenai Gillnet Proposal

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:52 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <brownbearamigo@yahoo.com>
Date: Thu, May 26, 2016 at 9:43 AM
Subject: Kenai Gillnet Proposal
To: subsistence@fws.gov
Cc: Jamie Hilton <hilton.jamie@yahoo.com>

I, Duane Gonzales, Jamie Gonzales, Gary Mitchell and Jan Mitchell, support the Cooper Landing/Hope subsistence proposal to NOT ALLOW gill nets on the Kenai River. It is important to conserve the resources we have."

This type of net fishing will eliminate the rest of our valuable salmon resources as it will catch and kill All Species! Great example is the Chinook Salmon (King).

The way it is now is working wonderful and there is no need to bring or utilize the gill net fishing. Please save our resources and help continue to preserve them for our off-spring.

Thank You
Duane and Jamie Gonzales
13022 Sterling Highway
Cooper Landing, AK 99572
907-595-2267

Gary and Jan Mitchell
Snug Harbor Road
Cooper Landing, AK 99572
907-595-1273

Sent from my iPhone

--
OSM is in receipt of your comments.

Thank you

May 12, 2016

Attn: Theo Matuskowitz

My name is Theresa Norris. I am a long time resident of Cooper Landing and I'm in favor of the Cooper Landing proposal FP17-06.

I strongly disapprove of the use of gill nets in the Kenai + Kasilof rivers. This method is not the traditional means by which to subsistence fish. Gill nets will destroy the Kings, Dollies, + rainbow trout and even will impact the red salmon fishing.

I have been dip netting at the ~~most~~ Russian River Falls ever since we could subsistence fish there. This method as well as rod + reel has allowed me and others who can subsistence fish to get all the fish we need and can use for the year.

I am 71 yrs old and walked in + out six times to the Russian River Falls to get my fish during the time allowed to subsistence fish. I enjoy the dip netting method to get my harvest of salmon for the year.

-over

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: No gill nets

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:06 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Mona Painter** <painter@arctic.net>
Date: Thu, May 26, 2016 at 10:20 PM
Subject: No gill nets
To: subsistence@fws.gov

The Kenai River is one of the greatest resources in the state, I believe. We must protect that resource. I support the Cooper Landing/Hope subsistence proposal that gill nets not be allowed on the Kenai River.
Mona Painter
PO Box 711, Cooper Landing, AK 99572

Sent from my iPad

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gill netting Kenai River

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 12, 2016 at 1:02 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Glen Parker** <gleneparker@yahoo.com>
Date: Thu, May 12, 2016 at 10:30 AM
Subject: Gill netting Kenai River
To: subsistence@fws.gov

I am a Cooper Landing resident who participates in the subsistence dip netting on the Russian River. I am not in favor of the setting of gill nets in the Kenai River for the conservation of the king salmon and other species that are in risk.
Glen Parker
Sent from my iPhone

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: gill netting on the Kenai River

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:50 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <tranquiltouch@arctic.net>
Date: Thu, May 26, 2016 at 9:25 AM
Subject: gill netting on the Kenai River
To: subsistence@fws.gov

I support the Cooper Landing/Hope subsistence proposal to not allow gill nets on the Kenai River. It is important to conserve the resources we have."

L.A. Perkerson
Cooper Landing, AK

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: No gill netting in the Kenai river

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:44 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Anne** <acrichards@yahoo.com>
Date: Wed, May 25, 2016 at 3:12 PM
Subject: No gill netting in the Kenai river
To: subsistence@fws.gov

Good afternoon,
I am writing to respectfully request that the permit to allow gill-netting on the Kenai river be revoked and to support the proposal from Cooper Landing to withdraw approval of gill nets. This fish gear will negatively impact the entire ecosystem.
Sincerely,
Anne Remick
37577 Snug Harbor Road
Cooper Landing

Sent from my iPad

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Reversing the Gill Net Regulation Proposal Comment

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:24 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Kristine Route** <kristine.route@gmail.com>
Date: Tue, May 24, 2016 at 2:02 PM
Subject: Reversing the Gill Net Regulation Proposal Comment
To: subsistence@fws.gov

Good Afternoon,

I am writing in opposition to the Gill Net Proposal for the Kenai River. I do not think this is a proper means of obtaining sockeye salmon when plenty of other, more selective, means exist. As a Cooper Landing subsistence dip-net user I feel utilizing the existing methods and locations is sufficient for obtaining a year's supply of salmon. This methods also allows for the release of accidental catch of other fish species. I think that that the gill net will significantly impact the biodiversity within the river corridor by accidentally killing non-targeted species.

I support the regulation to reverse the use of gill nets in the Kenai River as proposed by the Cooper Landing and Hope communities.

Thank you for you time and consideration,

Kristine Route
PO Box 872
Cooper Landing, AK 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Comment on FP 17-06 in the process of Reconsidering FP 15-10 and FP 15-11

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:23 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

--------- Forwarded message ---------
From: **RON SLOAN** <ronandsuka@gmail.com>
Date: Tue, May 24, 2016 at 1:51 PM
Subject: Comment on FP 17-06 in the process of Reconsidering FP 15-10 and FP 15-11
To: subsistence@fws.gov

These comments are in reference to providing rational to disallow gillnetting on the Kenai and Kasilof Rivers:

Thank you for the opportunity to provide comment. My name is Dr. Ronald Sloan, formerly a Research Scientist with the New York State Division of Fish and Wildlife. In the past nine years, since retirement, I have become a resident of the State of Alaska and involved in the community of Cooper Landing currently serving as President of the Senior Citizen Corporation and serving on the board of the Cooper Landing Chamber of Commerce. Since Cooper Landing is a subsistence community of which the seniors are users, although many, including myself, may be by proxy, their interests are contained in these comments along with the concerns of our business community.

Since I also oversee operations of the state boat launch at the mouth of Kenai Lake in Cooper Landing, I'm aware of the challenges the Kenai River faces. To have a gill net fishery suddenly develop represents another obstacle in this system that is unwarranted and unnecessary. As a professional biologist, I want to record my protest against the use of such a harvest method.

Allowing the use of gillnets on rivers such as the Kenai and Kasilof represents bad biology, bad business and sets a bad precedent. Gillnets are non-selective and lethal to any species encountering the mesh. An inadvertent by-catch involving king salmon, rainbow trout and dolly varden trout is unacceptable since the king salmon fishery is already facing demise on these rivers and the rainbow and dolly varden would be represented by large, probably

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: We oppose gillnets on The Kenai

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:22 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Rachel Jean Howatson** <hibernationtextiles@yahoo.com>
Date: Tue, May 24, 2016 at 1:29 PM
Subject: We oppose gillnets on The Kenai
To: "subsistence@fws.gov" <subsistence@fws.gov>

I am writing to voice the opinion of our family about recent proposals to allow gillnets on the Kenai River for subsistence. We stand firmly against this method of fishing for many reasons. We have had a subsistence fishing permit for the Russian River Falls for many years and have brought in plenty of fish for our family with little impact to the environment, there is no need for gill nets. More importantly, gill nets destroy the riverbed and precious breeding grounds for all kinds of wildlife including king salmon. We need to conserve this watershed and our salmon for future generations.

Thank you for reading the opinions of our community,

Rachel, Adam, Molly and Titus Sullivan
PO Box 668
Cooper Landing, Alaska 99572

253 318 5816

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gillnetting Kenai

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 2:32 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <alaskabray@cs.com>
Date: Thu, May 26, 2016 at 9:01 AM
Subject: Gillnetting Kenai
To: subsistence@fws.gov

I am a subsistence fisherman from Cooper Landing , Alaska.

I am opposed to the gill netting of the Kenai River, Alaska

It is counter to sound resource management. The gill nets do not discriminate between the targeted species, sockeye salmon, and the critically endangered Chinook salmon. It captures and kills, unlike dipnetting which allows selective catch and release. Additionally the world famous trophy Kenai Rainbow Trout are imperilled by gill netting

Stop the gillnets in the Kenai.

Phil Bray
PO 806
Cooper Landing Alaska
99572

Sent from AOL Mobile Mail
Get the new AOL app: mail.mobile.aol.com

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gill nets

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 5:51 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Adam Swain** <adamswain82@gmail.com>
Date: Thu, May 26, 2016 at 9:40 AM
Subject: Gill nets
To: "subsistence@fws.gov" <subsistence@fws.gov>

I support the cooperlanding/ Hope proposal to not allow gill netting on the kenai River. It's a terrible idea for our fishery.

-Adam Swain

Cooper Landing
Sent from my iPad

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: No gill nets in the Kenai please!

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:37 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **John Thomas** <jmtjohnt@yahoo.com>
Date: Tue, May 24, 2016 at 11:35 PM
Subject: No gill nets in the Kenai please!
To: "subsistence@fws.gov" <subsistence@fws.gov>

To whom it may concern,

I support the Cooper Landing/Hope subsistence proposal to not allow gill nets on the Kenai River. It is important to conserve the resources we have. Our family depends on the fish we net for our subsistence.
Thankyou for yur consideration.

John Thomas,
PO Box 670
Cooper Landing, Ak. 99572

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: subsistence fishing

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:40 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, George Pappas <george_pappas@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Tom & Lee Breaux** <tomlee12@juno.com>
Date: Wed, May 25, 2016 at 5:42 AM
Subject: subsistence fishing
To: subsistence@fws.gov

I don't believe any subsistence fishing should be allowed on the Kenai River. thru the years it seems that people have gotten along just fine fishing with rod and reel.

HAVE A GOOD DAY

TOM & LEE
FISH FEAR ME
/)---~<:{{{{<><

"A veteran is someone who at one point in their life, wrote a blank check made payable to The United States of America for any amount, up to and including their life."

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Support of FP 17-06

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:26 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Amee Howard <amee_howard@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Phil Weber** <philphc@hotmail.com>
Date: Tue, May 24, 2016 at 3:09 PM
Subject: Support of FP 17-06
To: "subsistence@fws.gov" <subsistence@fws.gov>

I am a qualified federal subsistence user. I support Proposal FP 17-06 "Proposal to Change Federal Subsistence Regulations". This proposal will ensure the conservation of rainbow trout and dolly varden from gillnet fishing. In addition, it will ensure the protection of riparian habitat along the fragile shores of the Kenai River.

Phil Weber

PO Box 738

Cooper Landing, AK 99572

Virus-free. www.avast.com

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Reconsideration of Federal Regulation allowing Gill Netting on Alaska's Kenai River

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:21 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <hutch@arctic.net>
Date: Tue, May 24, 2016 at 10:38 AM
Subject: Reconsideration of Federal Regulation allowing Gill Netting on Alaska's Kenai River
To: subsistence@fws.gov

Dear Federal Subsistence Board members,

As a local resident of Cooper Landing, AK and also a small bed and breakfast owner that operates during the short tourist season in Southcentral Alaska, I solicit your consideration to reevaluate the current federal regulation allowing Ninilchik Tribal Council (NTC) GILLNETTING on Alaska's Kenai River. My primary concerns for wanting to rescind the gillnetting process:

Loss of far too many other fish species (King salmon, Dolly Varden, Rainbow Trout, etc) that will be entangled in the gill nets while attempting to harvest coho and silver salmon. CONSERVATION is critical to the survival of our fishing industry.

There is no positive statistics to indicate that very many of the NTC members have requested permits to use the more traditional means of fish harvesting (rod & reel/dip net).

Gillnetting will result in unnecessary congestion on the river where other sportfishing boats are in use.

The regulation does not limit the volume of fish that can be harvested. If they are allowed to catch any quantity of fish, and then be allowed to SELL their overage, the subsistence gillnetters will be nothing more than commercial fishermen. With today's budget reductions regarding state and federal manpower to monitor such regulations, gillnetting on the Kenai River could be "a runaway train".

In closing, we have a large percentage of our local population that apply for subsistence dip net permits each year. They have a household limit on the amount they can harvest and most find this limit to be adequate for their family.

Thank you in advance for not allowing gillnetting on our pristine Kenai River.

Shirley A. Wilmoth
PO Box 649
Cooper Landing, AK 99572

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: I Support the Cooper Landing/Hope Subsistence Proposal

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 2:30 PM
To: Gene Peltola <gene_peltola@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Kevin Winkle** <kwx4@earthlink.net>
Date: Thu, May 26, 2016 at 7:58 AM
Subject: I Support the Cooper Landing/Hope Subsistence Proposal
To: subsistence@fws.gov

To Whom It May Concern,

I support the Cooper Landing/Hope subsistence proposal to **not** allow gill nets on the Kenai River. It is important to conserve the resources we have. It seems to me that using the gill net technique for subsistence fishing on the Kenai River is irresponsible as a means of subsistence fishing. The harm imposed on other fish species, Rainbow Trout and Dolly Varden, while seeking Red Salmon in gill nets is undeniable. Not to mention the harm to an already threatened King Salmon fishery.

The Kenai River is a premier fishery in South Central Alaska and is only to survive as such with an emphasis on conservation. That is not to say that I would deny subsistence fishing to our Native people groups, but increasing the dip netting take numbers for these people would allow for their subsistence while at the same time, be an action toward the conservation of all fisheries of the Kenai River.

Thank you for your time,

Kathleen G Winkle
35932 Russian Gap Road
Cooper Landing, AK 99572

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Gill nets

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 2:28 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, George Pappas <george_pappas@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **R Kevin Winkle** <kwx4@earthlink.net>
Date: Thu, May 26, 2016 at 7:43 AM
Subject: Gill nets
To: subsistence@fws.gov

I just wanted to express my support of the Cooper Landing- Hope proposal to reverse the decision to allow gill netting on the Kenai. I fully support subsistence fishing especially for our First Peoples of Alaska but I DO NOT support such an indiscriminate method as a gill net on a river such as the Kenai. The Kenai River is already one of the highest pressured fishing rivers in Alaska and is a premier Rainbow Trout and Dolly Varden fishery, not to mention the salmon that are targeted. Kenai river King salmon runs are dismal and do not need any further pressure from nets on the river. We need to provide subsistence fishing while at the same time preserve the other fish on this river. Gill nets would capture not just Reds, but also Dolly Varden and Trout. This is unacceptable for a premier and high pressured fishery that also needs to have conservation as a priority to maintain one of the true natural gems of the Kenai Peninsula. I fully support increased allowances of Red salmon via the current means of dippnetting in order to meet the subsistence goals of our Alaska Native communities since non-targetted fish are less likely to be caught in the first place and could be released with little harm caused.

Thank you for allowing me to share my concerns. Again, please reverse the gill net decision and find more appropriate and conservation minded methods of allowing the needed subsistence fishing.

Regards,

R. Kevin Winkle
35932 Russian Gap Rd
Cooper Landing, AK 99572
907-350-4394

--
OSM is in receipt of your comments.

Thank you

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

May 17, 2016

FILE COPY

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MAY 24 2016

Dear Mr. Matuskowitz:

I am a resident of Cooper Landing, it is one of three rural communities on the Kenai Peninsula and we have the largest percentage of our residents that are active subsistence users. In addition, our community has the largest numbers of active subsistence users on the Peninsula. I have actively participated in the subsistence dip net on the Russian and Kenai Rivers. I also proctor for a number of our elderly and handicapped. We use dip nets and walk 2.5 miles to get our subsistence fish at the Russian River Falls. I am 70 years old and baffled that Ninilchik residents are unable to get adequate fish for their residents since they have several subsistence options available to them.

I strongly support two recently submitted proposals: FP17-06 from Cooper Landing and Hope and FP17-07, submitted by the USFWS. Both these proposals are adamantly against Ninilchick Tribal Council's proposals for allowing gill netting on the Kenai River. My opposition is based on legal and conservation concerns. Those concerns are:

1. ANILCA puts conservation ahead of Subsistence "wants" or "demands". This was reaffirmed by the courts.
2. Highly regarded biologists have, without exception, testified that a gill net would further threaten King Salmon.
3. Gill nets are a known indiscriminate tool for fishing. Fish caught in them, including threatened and species of concern, die. Dip nets are proven on the rivers in question to be effective tools for netting fish and allowing non target species to be released.
4. Cooper Landing residents were not included in the outreach efforts on the original gill netting process despite the fact that we are not represented on the RAC.

I believe king salmon, rainbow trout and Dolly Vardens are species of concern on the Kenai River; that is, they are conservation issues. Such conservation issues should take priority. Gill netting is not a selective harvest means and will undoubtedly adversely affect these species of concern. Dip netting is a proven, selective harvest method and should only be used in subsistence fisheries on both the Russian and Kenai Rivers.

Sincerely

Sandra Kay Holstein
P.O. Box 190, 38361 Snug Harbor Rd
Cooper Landing AK 99572

Matuskowitz, Theo <theo_matuskowitz@fws.gov>

Fwd: Wildlife Proposal

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, Apr 14, 2016 at 11:20 AM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

——— Forwarded message ———
From: **Thomas Mader** <tmader84@gmail.com>
Date: Thu, Apr 14, 2016 at 8:43 AM
Subject: Wildlife Proposal
To: subsistence@fws.gov

Dear Federal Subsistence Board:

Thanks very much for allowing me to review the various proposals for the Kenai River. I can see the pros and cons of many of the arguments. However, we have to keep a few things in mind. First, gill netting is a very arbitrary way to harvest fish. Regardless of the size of the netting, you snag any fish that comes along. Second, even if released, these fish are frequently damaged. Third, we currently are witnessing a decline in the King Salmon fishery. The decline in this fishery has real impacts on the folks along the river. Fourth, the action we take now will greatly impact the future of this crucial fishery.

All things considered, I think the time has come to stop all gill netting in the Kenai River.

Sincerely,
Tom Mader
Cooper Landing

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

May 9, 2016

Dear Mr. Matuskowitz:

I am a resident of Cooper Landing, one of three rural communities on the Kenai Peninsula. I have actively participated in the subsistence dip net on the Russian and Kenai Rivers. I also proctor for a number of our elderly.

I strongly support two recently submitted proposals: FP17-06 from Cooper Landing and Hope and FP17-07, submitted by the USFWS. Both these proposals are adamantly against Ninilchick Tribal Council's proposals for allowing gill netting on the Kenai River.

I believe king salmon, rainbow trout and Dolly Vardens are species of concern on the Kenai River; that is, they are conservation issues. Such conservation issues should take priority. Gill netting is not a selective harvest means and will undoubtedly adversely affect these species of concern. Dip netting is a proven, selective harvest method and should only be used in subsistence fisheries on both the Russian and Kenai Rivers.

Sincerely,

Edward Holsten
PO Box 790
Cooper Landing, AK 99572

Chris Degernes
PO Box 683
Cooper Landing, AK 99572
Jaeger06@hotmail.com

May 22, 2016

Office of Subsistence Management
Attn: Regulations Specialist
1011 East Tudor Road, Mail Stop 121
Anchorage, Alaska 99503-6199

Re: Comments on Federal Subsistence Management Program 2017-2019 Fisheries Proposals

Dear Mr. Matuskowitz:

I have reviewed the specific proposals relating to regulation changes within the Cook Inlet area, specifically addressing the Kenai River. I support the recommendations found within FP 17-06, FP 17-07 and FP 17-08, while I oppose the proposals made within FP 17-09 and FP 17-10.

I am an authorized federal subsistence permittee residing in Cooper Landing and have utilized the dip net fishery at the Russian River Falls for a number of years. I believe that the conservation and sustainable management of our anadromous and resident fish is paramount to providing for the long term sustainability of our fisheries, thereby supporting our continued quality of life. If a particular method of harvest (i.e., gill net use) creates a risk to certain populations of fish, then it should be prohibited in favor of more discriminate type of harvest (i.e., rod and reel, dip net, etc.) Expediency and efficiency should not be factors in deciding what method of harvest may be permitted.

I urge that the new regulations delete permanently any provision authorizing gill nets on the Kenai River for subsistence harvest purposes, and that all Kenai River Chinook salmon are afforded protection while their numbers are at such historically low numbers. Thank you for considering my comments.

Sincerely,

Chris Degernes

To the Members of the Southcentral Regional Advisory Council:

Re: Support of FP17-07

As a full time resident of Cooper Landing, I am writing to express support for the approval FP17-07. This proposal by the U.S. Fish and Wildlife Service to end the Ninilchik Tribal Council's operation of a community gillnet on the Kenai strongly supports the intentions, the spirit and the requirements of ANILCA §802. FP17-06 is
1. "consistent with sound management principles and the conservation of health populations of fish and wildlife", and
2. "consistent with management of fish and wildlife in accordance with recognized scientific principles". (ANILCA §802)

Allowing the use of a non selective means of fishing such as a gillnet violate section §815 of ANILCA in that a gillnet

> "permits the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the healthy (fish) populations". (ANILCA §815)

Finally, FP17-07 is also consistent with ANILCA §801, subsection (4):

"In order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary . . . **to protect and provide the opportunity for continued subsistence uses on the public land by Native and non-Native rural residents."** (ANILCA §801, subsection (4))

The operation of a gillnet on the Kenai River **threatens the healthy populations of fish in the Kenai River** and thereby aggrieves our priority, as subsistence users in Cooper Landing, to the continued use of these fish to maintain a subsistence tradition and lifestyle.

Sincerely,
Kathryn L. Recken
19567 Rusty's Way
PO Box 747
Cooper Landing, AK 99572

krecken@gmail.com

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: 2017-2019 Federal subsistence regulations for the taking of fish and shellfish on Federal public lands in Alaska

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Mon, May 23, 2016 at 4:18 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **Nick VanderHoff** <nvanderhoff@yahoo.com>
Date: Sat, May 21, 2016 at 4:58 PM
Subject: 2017-2019 Federal subsistence regulations for the taking of fish and shellfish on Federal public lands in Alaska
To: "Subsistence@fws.gov" <Subsistence@fws.gov>

Attn: Theo Matuskowitz
Federal Subsistence Board
Office of Subsistence Management

Reference proposal number: FP17-07

I am a resident of Cooper Landing, one of the three subsistence communities on the Kenai Peninsula. I successfully subsistence fish using selective gear (dipnet). I support FP17-07 because it is consistent with sound management principles, and the conservation of healthy populations of fish and wildlife.

John N VanderHoff

--
OSM is in receipt of your comments.

Thank you

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Support for FP17-07

1 message

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:29 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Amee Howard <amee_howard@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, George Pappas <george_pappas@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: <rebew@arctic.net>
Date: Tue, May 24, 2016 at 3:20 PM
Subject: Support for FP17-07
To: subsistence@fws.gov

I am a qualified federal subsistence user. I support Proposal FP 17-07 "Proposal to Change Federal Subsistence Regulations for the Harvest of Fish and Shellfish". This proposal will ensure the conservation of rainbow trout and dolly varden from gillnet fishing. In addition, it will ensure the protection of riparian habitat along the fragile shores of the Kenai River.

Janet Bentley Weber
PO Box 738
Cooper Landing, AK 99572

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OSM is in receipt of your comments.

Thank you

Appendix A – State of Alaska Sustainable Salmon Fisheries Policy

5 AAC 39.222. Policy for the management of sustainable salmon fisheries

(a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

(1) while, in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

(2) in formulating fishery management plans designed to achieve maximum or optimum salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;

(3) to effectively assure sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

(1) wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

(C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;

(D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;

(E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;

(F) salmon escapement and harvest management decisions should be made in a manner that protects nontarget salmon stocks or species;

(G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;

(H) salmon abundance trends should be monitored and considered in harvest management decisions;

(3) effective management systems should be established and applied to regulate human activities that affect salmon as follows:

(A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;

(B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;

(C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for by management plans or by application of the board's allocation criteria;

(D) management agencies should have clear authority in statute and regulation to

(i) control all sources of fishing mortality on salmon;

(ii) protect salmon habitats and control nonfishing sources of mortality;

(E) management programs should be effective in

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(G) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;

(H) the board will work, within the limits of its authority, to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized;

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;

(J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for sustainable management of existing salmon fisheries and wild salmon stocks;

(K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure sustainable management of wild salmon stocks;

(L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;

(M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;

(P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:

(A) effective mechanisms for dispute resolution should be developed and used;

(B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;

(C) the board's regulatory management and allocation decisions will be made in an open process with public involvement;

(D) an understanding of the proportion of mortality inflicted on each salmon stock by each user group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including AS 16.05.251 (e) and AS 16.05.258 ; in the absence of a regulatory management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;

(E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

(A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;

(iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource;

(v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

(1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy salmon stocks and sustainable salmon fisheries;

(D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the

(i) identification of a new fishery or expanding fishery;

(ii) identification of any salmon stocks, or populations within stocks, that present a concern related to yield, management, or conservation; and

(iii) description of management and research options to address salmon stock or habitat concerns;

(2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize the adverse effects on salmon habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;

(D) prevent overfishing; and

(E) provide conservation and management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource;

(3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will, as appropriate, amend or develop salmon fishery management plans to address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including

(A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;

(B) identification of salmon stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;

(D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; and

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority that impacts the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;

(2) "allocation criteria" means the factors set out in AS 16.05.251 (e) considered by the board as appropriate to particular allocation decisions under 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007;

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(4) "burden of conservation" means the restrictions imposed by the board or department upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;

(5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time of most salmon species;

(6) "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;

(7) "depleted salmon stock" means a salmon stock for which there is a conservation concern;

(8) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;

(9) "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;

(10) "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;

(11) "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;

(12) "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;

(13) "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;

(14) "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to result in, impacts leading to yield, management, or conservation concerns;

(15) "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

(16) "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;

(17) "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;

(18) "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(19) "inriver run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;

(20) "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced salmon stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;

(21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG, BEG, OEG, or other specified management objectives for the fishery; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(23) "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;

(24) "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a nonconsumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;

(28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that are expressed physically, such as body size and length at age;

(29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;

(30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;

(31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;

(32) "salmon" means the five wild anadromous semelparous Pacific salmon species Oncorhynchus sp., except steelhead and cutthroat trout, native to Alaska as follows:

(A) Chinook or king salmon (O. tschawytscha);

(B) sockeye or red salmon (O. nerka);

(C) coho or silver salmon (O. kisutch);

(D) pink or humpback salmon (O. gorbuscha); and

(E) chum or dog salmon (O. keta);

(33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;

(34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;

(35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated or managed for; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board; the SEG will be developed from the best available biological information; and should be scientifically defensible on the basis of that information; the SEG will be determined by the department and will take into account data uncertainty and be stated as either a "SEG range" or "lower bound SEG"; the department will seek to maintain escapements within the bounds of the SEG range or above the level of a lower bound SEG;

(37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

(40) "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;

(41) "yield" means the number or weight of salmon harvested in a particular year or season from a stock;

(42) "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;

(43) "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time;

(44) "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

History: Eff. 9/30/2000, Register 155; am 11/16/2000, Register 156; am 6/22/2001, Register 158; am 6/10/2010, Register 194

Authority: AS 16.05.251

FP17-08 Executive Summary	
General Description	Proposal FP17-08 requests changes to two sections of regulations for the Kenai River that would close a portion of the Federal public waters to Chinook Salmon fishing, extend conservation size regulations in another area of the drainage, remove distinction between early- and late-run, modify seasonal and daily harvest and possession limits, and specify that harvest from the Kasilof River experimental community gillnet will be included in each household's limits for the Kenai River dip net/rod and reel fishery. *Submitted by: U.S. Fish and Wildlife Service, Region 7.*
Proposed Regulation	*§___.27(e)(10)(iv)(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, ~~late-run~~ Chinook, coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake,* ***and Chinook salmon through a dip net/rod and reel fishery at one specified site on the Kenai River below Skilak Lake*** *and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel,* ***experimental community gillnet****, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. 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), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. 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. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident*

	species. *(1) The household dip net and rod and reel gear fishery is limited to three sites:* *(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).* *ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31.* ***Chinook Salmon may not be harvested at this site and any Chinook Salmon incidentally caught must be immediately released.*** *Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).* *(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.* *(2) Fishing seasons are as follows:* *(i) For sockeye salmon at all fishery sites: June 15-August 15;* *(ii) For ~~late-run Chinook,~~ pink~~,~~ and coho salmon at both Kenai River fishery sites only: July 16-September 30; ~~and~~* ***(iii) For Chinook Salmon at the Kenai River Moose Range Meadows fishery site only: July 16 – September 30; and*** *(iii iv) Fishing for sockeye, ~~late-run~~ Chinook, coho, or pink*

	salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action *(3) Each household may harvest their annual Sockeye, late-run Chinook, Coho, or Pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.* *(i) For Sockeye Salmon—annual total harvest limit of 4,000 (including any retained Chum Salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;* *(ii) For ~~late-run~~ Chinook Salmon—~~annual total harvest limit of 1,000;~~ annual household limits of ~~10~~ **4** for each permit holder and 2 additional for each household member;* *(iii) For Coho Salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household member; and* *(iv) For Pink Salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.* *§___.27(e)(10)(iv) (E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (e)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager by the due date listed on the permit. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (e)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) 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 77.54), except for the following harvest and possession limits: *(1) In the Kenai River below Skilak Lake, fishing is allowed with up to two baited single or treble hooks June 15–August 31.* ~~*(2) For early-run Chinook salmon less than 46 inches or 55 inches or longer, daily harvest and possession limits are two per day and two in possession.*~~ ~~*(3) For late-run Chinook salmon 20 inches and longer, daily harvest and possession limits are two per day and two in possession.*~~ ***(2) For the Kenai River Moose Range Meadows fishery site only: Chinook Salmon less than 46 inches or 55 inches or longer may be harvested from July 16 – August 31 with daily harvest and possession limits of two per day and four in possession.*** ***(3) In the Kenai River from Federal regulatory markers at the outlet of Skilak Lake at about river mile 50 downstream approximately 4.5 miles to a marker on the Kenai River at about river mile 45.5, fishing for Chinook Salmon is prohibited. Chinook salmon may not be harvested at this site and any Chinook Salmon incidentally caught must be immediately released.*** *(4) Annual harvest limits for* ~~*any combination of early- and late-run*~~ *Chinook salmon are four for each permit holder.* *(5) For other salmon 16 inches and longer, the combined daily harvest and possession limits are six per day and six in possession, of which no more than four per day and four in possession may be coho salmon, except for the Sanctuary Area and Russian River, for which no more than two per day and two in possession may be coho salmon.*
OSM Preliminary Conclusion	**Option 1**: **Defer** (see page 371). **Option 2**: **Support with modification** to only remove language distinguishing between early and late run Chinook Salmon (see page 371). Request 1: **Support** Request 2: **Oppose** Request 3: **Oppose** Request 4: **Oppose**

	Request 5: **Oppose** Request 6: **Support** Request 7: **Oppose** Request 8: **Oppose** See pages 372 - 374 for modified regulatory language.
OSM Conclusion	**Option 1**: **Defer** (see page 380). **Option 2**: **Support with modification** to only remove language distinguishing between early and late run Chinook Salmon and remove the 1,000 Chinook Salmon annual total harvest limit (see page 381). Request 1: **Support** Request 2: **Oppose** Request 3: **Oppose** Request 4: **Support with modification** Request 5: **Oppose** Request 6: **Support** Request 7: **Oppose** Request 8: **Oppose** See pages 381 - 383 for modified regulatory language.
Southcentral 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	**Option 1**: **Neutral** **Option 2**: **Support with modification** (see page 392).
Written Public Comments	**3 Support, 1 Oppose**

STAFF ANALYSIS
FP17-08

ISSUES

Proposal FP17-08, submitted by the U.S. Fish and Wildlife Service, Region 7, Alaska, requests the Federal Subsistence Board revise sections §___.27(i)(10)(iv)(D), which authorizes a dip net/rod and reel fishery at three locations on the Kenai River for Federally qualified subsistence users, and §___.27(i)(10)(iv)(E), which authorizes a separate rod and reel salmon fishery in Federal public waters of the Kenai River and its tributaries.

Section §___.27(i)(10)(iv)(D) currently provides the residents of Hope, Cooper Landing, and Ninilchik with a dip net/rod and reel fishery at one specified site on the Russian River for Sockeye Salmon, and at two specified sites on the Kenai River below Skilak Lake for Sockeye, late-run Chinook, Coho, and Pink Salmon. The requested changes to this section are:

1. Remove all language distinguishing the early- and late-runs of Chinook Salmon;
2. Prohibit harvest and require immediate release of Chinook Salmon below Skilak Lake from river mile (RM) 48 downstream to RM 45.5;
3. Specify that Chinook Salmon may be harvested in the Moose Range Meadows area from approximately RM 29 downstream to RM 26.5 between July 16 and September 30;
4. Remove 1,000 fish annual total harvest limit for Chinook Salmon, and adjust annual household limit from 10 Chinook Salmon (plus 2 per each additional household member) to 4 Chinook Salmon (plus 2 per each additional household member);
5. Specify that salmon taken in the Kasilof River experimental gillnet Federal subsistence fisheries by the residents of Ninilchik will be included in each household's annual limit for the Kenai and Russian River's dipnet/rod and reel fishery.

Section §___.27(i)(10)(iv)(E) provides the residents of Hope, Cooper Landing, and Ninilchik with a separate rod and reel fishery in the Federally managed waters of the Kenai River and its tributaries. The requested changes to this section are:

1. Remove all language distinguishing the early- and late-runs of Chinook salmon;
2. Specify that Chinook Salmon may be harvested in the Moose Range Meadows area from approximately RM 29 downstream to RM 26.5, between July 16 and August 31, with daily harvest and possession limits of 2 per day and 4 in possession, and only if fish are less than 46 inches or 55 inches or longer;
3. Prohibit harvest and require immediate release of Chinook Salmon from the outlet of Skilak Lake at RM 50 downstream to RM 45.5.

DISCUSSION

The proponent states that the requested changes "will afford needed protections for Kenai River Chinook Salmon that will help achieve the intent of the State of Alaska's Kenai River and Kasilof River Early-run King Salmon Conservation Management Plan (5 AAC 56.070) by extending protective slot limits and

harvest restrictions for Chinook Salmon throughout their residency in freshwater and affording protections while on the spawning grounds."

According to the proponent, the intents of the proposal are to:

1. Close the Kenai River between RM 45.5 and Skilak Lake to fishing for Chinook Salmon;
2. Extend conservative size regulations for Chinook Salmon at the Moose Range Meadows fishing site;
3. Remove confusing regulatory language about the early- and late-runs; and
4. Modify seasonal and daily harvest and possession limits for Chinook Salmon.

The proponent has also submitted two companion proposals to the State of Alaska Board of Fisheries (BOF), for changes to State of Alaska fishing regulations 5 ACC 57.120 and 5 ACC 57.121, to close 4.5 miles of the Kenai River below Skilak Lake to sport fishing for Chinook Salmon (Proposal 155) and to extend the time of the protective slot limit and single hook/no bait restrictions through July 31 upstream of the Slikok Creek closure area (Proposal 159). If the proposals are validated, they will be taken up by the BOF during its February – March 2017 meeting in Anchorage, more than a month after the January 2017 meeting of the Federal Subsistence Board.

Existing Federal Regulation

Cook Inlet Area

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

<u>Kenai River dip net/rod and reel fishery</u>

§___.27(e)(10)(iv)(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and Sockeye, late-run Chinook, Coho, and Pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. 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), Rainbow Trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. 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. Before leaving the fishing site,

all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum Salmon that are retained are to be included within the annual limit for Sockeye Salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).

ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).

(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(2) Fishing seasons are as follows:

(i) For sockeye salmon at all fishery sites: June 15-August 15;

(ii) For late-run Chinook, pink, and coho salmon at both Kenai River fishery sites only: July 16-September 30; and

(iii) Fishing for sockeye, late-run Chinook, coho, or pink salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special

action

(3) Each household may harvest their annual Sockeye, late-run Chinook, Coho, or Pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.

(i) For Sockeye Salmon—annual total harvest limit of 4,000 (including any retained Chum Salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;

(ii) For late-run Chinook Salmon—annual total harvest limit of 1,000; annual household limits of 10 for each permit holder and 2 additional for each household member;

(iii) For Coho Salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household member; and

(iv) For Pink Salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.

Kenai River separate rod and reel fishery

§___.27(e)(10)(iv)(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (e)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager by the due date listed on the permit. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (e)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) 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 77.54), except for the following harvest and possession limits:

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

(2) For early-run Chinook salmon less than 46 inches or 55 inches or longer, daily harvest and possession limits are two per day and two in possession.

(3) For late-run Chinook salmon 20 inches and longer, daily harvest and possession limits are two per day and two in possession.

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

(5) For other salmon 16 inches and longer, the combined daily harvest and possession limits are six per day and six in possession, of which no more than four per day and four in possession may be coho salmon, except for the Sanctuary Area and Russian River, for which no more than two per day and two in possession may be coho salmon.

Kasilof River experimental community gillnet fishery

§___.27(e)(10)(iv)(I) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon through an experimental community gillnet fishery in the Federal public waters of the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch July 1-31. The experimental community gillnet fishery will expire 5 years after approval of the first operational plan.

(1) Only one community gillnet can be operated on the Kasilof River. The gillnet cannot be over 10 fathoms in length, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager. The experimental community gillnet will be subject to compliance with Kenai National Wildlife Refuge regulations and restrictions.

(i) Prior to the season, provide a written operational plan to the Federal fishery manager including a description of fishing method, mesh size requirements, fishing time and location, and how fish will be offered and distributed among households and residents of Ninilchik;

(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.

(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i) Identifies a person who will be responsible for fishing the gillnet;

(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for

effective resource management by the Federal fishery manager.

(4) Fishing for Sockeye, Chinook, Coho and Pink salmon will be closed by Federal Special Action prior to the operational plan end dates if the annual total harvest limits for any salmon species is reached or suspended.

(5) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River. All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location.

(i) A portion of the total annual harvest limits for the Kasilof River will be allocated to the experimental community gillnet fishery.

(ii) The gillnet fishery will be closed once the allocation limit is reached.

(6) Salmon taken in the experimental community gillnet fishery will be included as part of the dip net/rod and reel fishery annual household limits for the Kasilof River.

(7) Residents of Ninilchik may retain other species incidentally caught in the Kasilof River. When the retention of rainbow/steelhead trout has been restricted under Federal subsistence regulations, the gillnet fishery will be closed.

(8) Before leaving the site, all harvested fish must be marked by removing their dorsal fin, and all retained fish must be recorded on the fishing permit.

(9) Failure to respond to reporting requirements or return the completed harvest permit by the due date listed on the permit may result in issuance of a violation notice and will make you ineligible to receive a subsistence permit during the following regulatory year.

<u>Kenai River experimental community gillnet fishery</u>

§___.27(e)(10)(iv)(J) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.

(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will

be issued to an organization that, as the community gillnet owner, will be responsible for its use and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:

(i) Prior to the season, provide a written operational plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;

(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.

(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i) Identifies a person who will be responsible for fishing the gillnet;

(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.

(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.

(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

Proposed Federal Regulation

Cook Inlet Area.

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, ~~and~~ sockeye, ~~late-run Chinook,~~ coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake, ***and Chinook salmon through a***

dip net/rod and reel fishery at one specified site on the Kenai River below Skilak Lake *and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel,* ***experimental community gillnet,*** *and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. 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), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. 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. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species..*

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).

ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. ***Chinook Salmon may not be harvested at this site and any Chinook Salmon incidentally caught must be immediately released.*** *Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).*

(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian

River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(2) Fishing seasons are as follows:

(i) For sockeye salmon at all fishery sites: June 15-August 15;

(ii) For ~~late-run Chinook,~~ pink, and coho salmon at both Kenai River fishery sites only: July 16-September 30; ~~and~~

(iii) For Chinook Salmon at the Kenai River Moose Range Meadows fishery site only: July 16 – September 30; and

*(~~iii~~ **iv)** Fishing for sockeye, ~~late-run~~ Chinook, coho, or pink salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action*

(3) Each household may harvest their annual Sockeye, ~~late-run~~ Chinook, Coho, or Pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.

(i) For Sockeye Salmon—annual total harvest limit of 4,000 (including any retained Chum Salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;

*(ii) For ~~late-run~~ Chinook Salmon—~~annual total harvest limit of 1,000;~~ annual household limits of ~~10~~ **4** for each permit holder and 2 additional for each household member;*

(iii) For Coho Salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household member; and

(iv) For Pink Salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.

(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (e)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager by the due date listed on the permit. Incidentally caught

fish, other than salmon, are subject to regulations found in paragraphs (e)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) 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 77.54), except for the following harvest and possession limits:

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

~~*(2) For early-run Chinook salmon less than 46 inches or 55 inches or longer, daily harvest and possession limits are two per day and two in possession.*~~

~~*(3) For late-run Chinook salmon 20 inches and longer, daily harvest and possession limits are two per day and two in possession.*~~

(2) For the Kenai River Moose Range Meadows fishery site only: Chinook Salmon less than 46 inches or 55 inches or longer may be harvested from July 16 – August 31 with daily harvest and possession limits of two per day and four in possession.

(3) In the Kenai River from Federal regulatory markers at the outlet of Skilak Lake at about river mile 50 downstream approximately 4.5 miles to a marker on the Kenai River at about river mile 45.5, fishing for Chinook Salmon is prohibited. Chinook salmon may not be harvested at this site and any Chinook Salmon incidentally caught must be immediately released.

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

(5) For other salmon 16 inches and longer, the combined daily harvest and possession limits are six per day and six in possession, of which no more than four per day and four in possession may be coho salmon, except for the Sanctuary Area and Russian River, for which no more than two per day and two in possession may be coho salmon.

Existing State Regulations

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 ACC 57.121 – 5 AAC 57.123 or by emergency order issues under AS 16.05.60, the following 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:

(1) salmon may be landed only with the aid of a landing net or by hand;

(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 14, 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 42 inches in length or 55 inches or greater in length may be retained;

(ii) if retention is permitted under this subparagraph, a king salmon 20 inches or greater in length that is removed from the water must be retained and becomes part of the bag limit of the person originally hooking it; a person may not remove a king salmon from the water before releasing the fish; except as provided in (b)(1) of this section, there is an annual limit of two king salmon and a harvest record is required as specified in 5 AAC 75.006;

(iii) a king salmon 55 inches or greater in length taken from the Kenai River from January 1 - July 31 must be sealed as specified in 5 AAC 57.160;

(iv) from January 1 - July 14, a person may not possess a king salmon that has been filleted, headed, mutilated, or otherwise disfigured in a manner that prevents determination of the length of fish taken until the fish is permanently offloaded from a vessel if the fish was taken from a vessel or permanently transported away from the fishing site if the fish was taken from the riverbank; for the purposes of this sub-subparagraph, "fishing site" means the riverbank where the fish was hooked and removed from the water becoming part of the angler's bag limit;

(B) king salmon 20 inches or greater in length may not be taken

(i) in the Kenai River upstream from an ADF&G regulatory marker located at the outlet of Skilak Lake, including Kenai Lake; and

(ii) in the Kenai River drainage lakes and tributaries including Kenai Lake tributaries, except the lower Moose River;

(C) a person, after taking and retaining a king salmon 20 inches or greater in length from the Kenai River, may not sport fish from a boat in the Kenai River downstream from an ADF&G regulatory marker located at the outlet of Skilak Lake for any species of fish on that same day;

(3) king salmon less than 20 inches in length may be taken in

(A) flowing waters and unstocked lakes and ponds only from January 1 - July 31; bag and possession limit of 10 fish;

5 AAC 57.121. Special provisions for the seasons, bag, possession, and size limits, and methods and means for the Lower Section of the Kenai River Drainage Area.

(a) Unless otherwise specified in 5 ACC 57.121 – 5 AAC 57.123 or by emergency order issues under AS 16.05.60, the following 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:

(1) sport fishing gear restrictions:

(A) from January 1 - June 30, in the Kenai River, and from July 1 - July 14, in the Kenai River from an ADF&G regulatory marker located approximately 300 yards downstream from the mouth of Slikok Creek upstream to an ADF&G regulatory marker located at the outlet of Skilak Lake, only one unbaited, single-hook, artificial lure may be used;

(B) from July 1 - July 31, in the Kenai River from its mouth upstream to an ADF&G regulatory marker located approximately 300 yards downstream from the mouth of Slikok Creek, and from July 15 - July 31, in the Kenai River from its mouth upstream to an ADF&G regulatory marker located at the outlet of Skilak Lake, only one single hook may be used;

(C) from September 1 - December 31, in the Kenai River from the mouth of the Upper Killey River upstream to an ADF&G regulatory marker located at the outlet of Skilak Lake, only unbaited, artificial lures may be used;

(D) from December 1 - December 31, in the Kenai River from its mouth upstream to an ADF&G regulatory marker located at the outlet of Skilak Lake, only unbaited, artificial lures may be used;

(E) from May 15 - August 15, the Moose River from its confluence with the Kenai River upstream to the upstream edge of the Sterling Highway Bridge, and the waters of the Kenai River within a 100-yard radius of the Moose River, are fly-fishing-only waters;

(F) from January 1 - July 31, the following waters are fly-fishing-only waters:

(i) that portion of the Kenai River from an ADF&G regulatory marker located approximately 300 yards downstream from the mouth of Slikok Creek, upstream to an ADF&G regulatory marker located approximately 300 yards upstream from the mouth of Slikok Creek;

(ii) that portion of the Kenai River from an ADF&G regulatory marker located approximately one mile downstream from the mouth of Funny River, upstream to an ADF&G regulatory marker located approximately 200 yards upstream from the mouth of the Funny River;

(G) from January 1 - July 31, that portion of the Kenai River from an ADF&G regulatory marker located approximately three-quarters of a mile downstream from the mouth of the Lower Killey River, upstream to an ADF&G regulatory marker located approximately one mile upstream from the mouth of the Lower Killey River, is fly-fishing-only waters;

(H) repealed 5/18/2014;

(I) in Mackey Lakes, Derks Lake, Sevena Lake, Union Lake, and the unnamed lakes on Tote Road, five lines may be used to fish for northern pike through the ice; allowable gear is limited to standard ice fishing gear as specified in 5 AAC 57.120(9) (B); fishing gear must be closely attended as specified in 5 AAC 75.033; all other species of fish caught must be released immediately;

(J) during times when the retention of king salmon is prohibited under 5 AAC 57.160(d) (2)(A) or 5 AAC 21.359(e) (1), only one unbaited, barbless, single-hook, artificial lure may be used when sport fishing for king salmon; in this subparagraph, "barbless" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook;

(2) the following waters of the Kenai River are closed to sport fishing, as follows:

(A) from April 15 - August 15, Slikok Creek;

(B) from January 1 - December 31, the flowing waters of Soldotna Creek upstream of ADF&G markers located approximately 100 feet upstream from its confluence with the Kenai River;

(C) from May 2 - June 10, the flowing waters of Soldotna Creek downstream from an ADF&G regulatory marker located approximately 100 feet upstream from its confluence with the Kenai River;

(D) from January 1 - July 31, that portion of the Kenai River from an ADF&G regulatory marker located approximately one mile downstream from the mouth of the Funny River, upstream to an ADF&G regulatory marker located approximately 200 yards upstream from the mouth of the Funny River, is closed to the taking of king salmon;

(E) from June 11 - August 14, the Funny River from the Kenai River upstream to the Funny River Road Bridge;

(F) from May 2 - June 10, the flowing waters of Moose River upstream of the upper edge of the Sterling Highway Bridge;

(G) from January 1 - July 31, that portion of the Kenai River from an ADF&G regulatory marker located approximately three-quarters of a mile downstream from the mouth of the Lower Killey River, upstream to an ADF&G regulatory marker located approximately one mile upstream from the mouth of the Lower Killey River, is closed to the taking of king salmon;

Extent of Federal Public Waters

Federal public waters are defined and described under 36 CFR 242.3 and 50 CFR100.3. For the Kenai River, Federal public waters under consideration include all waters of the Kenai River within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge and Chugach National Forest (**Map 1**).

This includes Kenai Lake and its tributaries and all water downstream to the confluence of the upper branch of the Killey River (approximately RM 45.5), the mainstem Kenai River between RM 26.5 and 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

Pre- and Early Statehood Fisheries

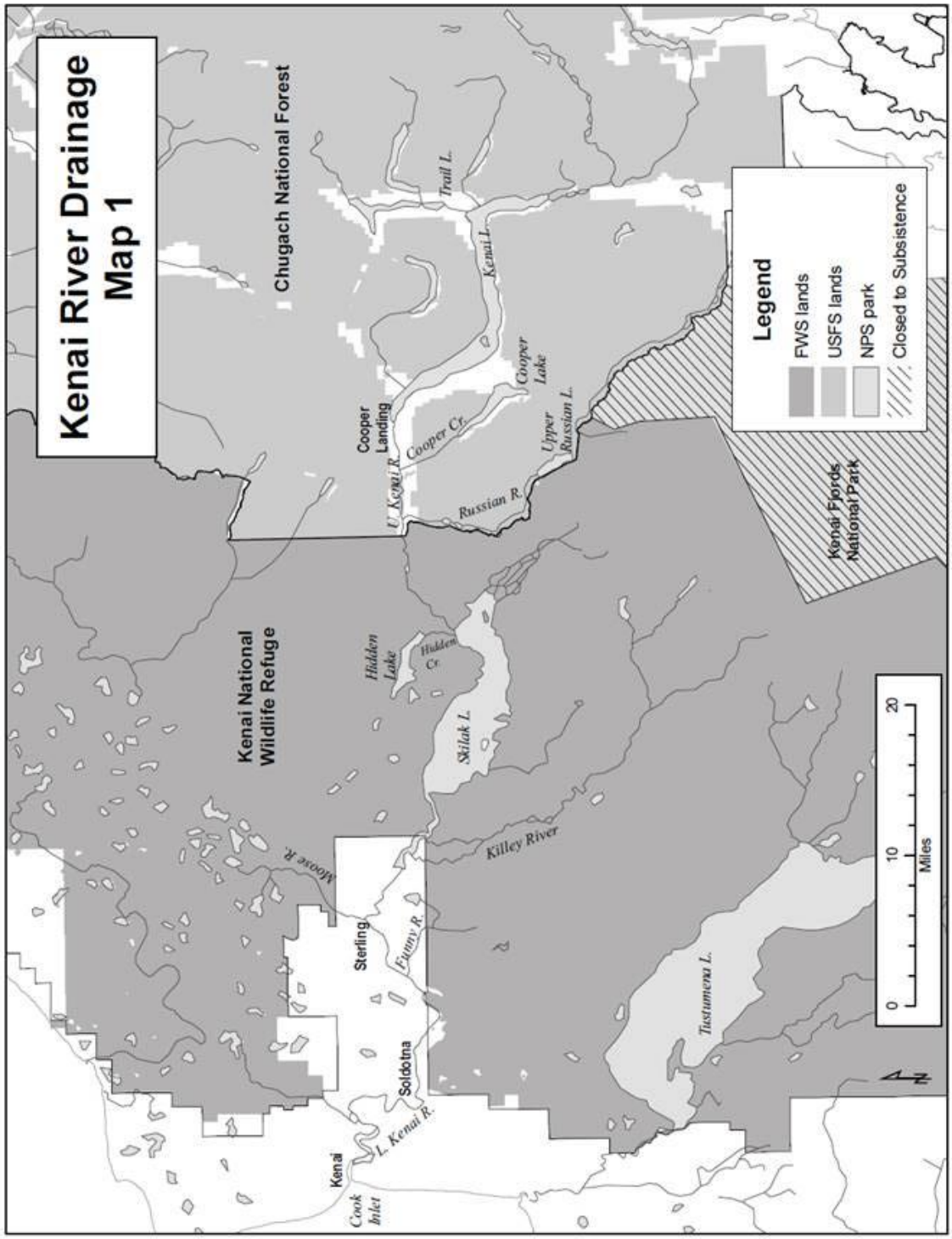
Prior to 1952, freshwater streams in the Kenai Peninsula were open to subsistence fishing, but poorly managed commercial fisheries, a growing local and Alaska State resident population, and increased user pressure decimated salmon runs. In 1952, as part of efforts to rebuild salmon runs, all streams 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).

Contemporary State Fisheries

Overall, the State of Alaska manages commercial and sport salmon fisheries statewide based on the principles and criteria listed in the State's Policy for the management of sustainable salmon fisheries, 5AAC 39.222 (**Appendix A**). A State regulatory management plan for Upper Cook Inlet salmon (5 AAC 21.363) provides the Alaska Board of Fisheries guiding principles and provisions for adopting management plans for specific stocks. 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 Kenai River fisheries are complex and intensively managed by the State of Alaska. There are five management plans that apply to Kenai River salmon stocks:

Upper Cook Inlet Salmon Management Plan (5 AAC 21.363)
Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 56.070)
Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359)
Kenai River Late-Run Sockeye Salmon Management Plan (5 AAC 21.360)
Kenai River Coho Salmon Management Plan (5 AAC 56.080)


Kenai River Drainage
Map 1
Chugach National Forest
Kenai National
Wildlife Refuge
Kenai Fjords
National Park
Legend
FWS lands
USFS lands
NPS park
Closed to Subsistence
Cooper
Landing
U. Kenai R.
Cooper Cr.
Trail L.
Kenai L.
Cooper
Lake
Upper
Russian L.
Russian R.
Hidden
Lake
Hidden
Cr.
Skilak L.
Killey River
Moose R.
Sterling
Funny R.
Soldotna
L. Kenai R.
Kenai
Cook
Inlet
Tustumena L.
0
10
20
Miles
N

These plans provide goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and instructions for allocation between competing fisheries. Most of the initial Federal subsistence fishing regulations for the Kenai River that were put in place during the period of 2006 – 2008, were based on these plans to mirror State of Alaska regulations, conservation efforts, and management.

The State also has a regulatory management plan for Upper Cook Inlet personal use salmon fisheries (5 AAC 77.540). This plan established four personal use fisheries in Cook Inlet: Kasilof River dip net, Kasilof River set gillnet, Kenai River dip net, and Fish Creek dip net. Unlike subsistence fisheries, personal use fisheries do not have a priority over other existing uses. Personal use fisheries are open to all residents of Alaska, require a household permit and sport fishing license, occur in marine and intertidal waters, and are well downstream of Federal public waters in the Kenai River drainage. These fisheries target Sockeye Salmon, the species of greatest abundance and for which the best stock assessment information is available. Annual harvest limits are 25 salmon for the head of each household and 10 salmon for each additional household member. The limit is combined for all four fisheries. Incidentally caught Coho, Pink, and Chum Salmon may be retained as part of the annual limit. Each household is limited to one Chinook Salmon in the Kenai River dip net fishery.

Finally, the State administers up to twelve educational fisheries each year in the Cook Inlet area under the provisions of 5 AAC 93.200 – 93.235 (Nelson et al. 1999, Fall et al. 2004). Around half of these educational fisheries occur in marine waters near the mouths of Kenai Peninsula Rivers. The purpose of educational fisheries is to allow groups to practice traditional, contemporary, or experimental methods for locating, harvesting, or processing fishery resources. Educational fisheries like person use fisheries, but unlike subsistence fisheries, do not have statutory priority over other fisheries. Therefore, during times of resource shortages, educational fisheries could be restricted before or at the same time as commercial, sport and personal use fisheries are restricted.

From 2010 to 2016, numerous State emergency orders were put in place to protect Chinook salmon in the Kenai River due to conservation concerns (**Table 1**)

Table 1. Emergency Orders issued by the Alaska Department of Fish and Game for Chinook Salmon in the Kenai River drainage between 2010 and 2016

Alaska Department of Fish and Game Chinook Salmon Emergency Orders for Kenai River				
Year	Number	Start Date	End Date	Action
2010	2-KS-1-12-10	6/5/2010	7/14/2010	Partial season closure for sport fishery
2010	2-KS-1-16-10	6/12/2010	7/14/2010	Restricted reopening for sport fishery
2010	2-KS-1-19-10	6/15/2010	7/31/2010	Reopen back to standard sport fishing regulations
2011	2-KS-1-17-11	6/29/2011	7/14/2011	Restrict sport fishery
2011	2-KS-1-20-11	7/15/2011	7/31/2011	Continue duration of restricted sport fishery
2012	2-KS-1-11-12	6/15/2012	7/14/2012	Restrict sport fishery
2013	2-KS-1-11-13	5/16/2013	7/14/2013	Restrict sport fishery
2013	2-KS-1-22-13	6/20/2013	7/14/2013	Close sport fishery in some areas, restrict in others
2013	2-KS-1-24-13	7/1/2013	7/31/2013	Restrict sport fishery
2013	2-KS-1-34-13	7/10/2013	7/31/2013	Prohibit retention of Chinook Salmon in personal use fishery

Alaska Department of Fish and Game Chinook Salmon Emergency Orders for Kenai River – cont.				
Year	Number	Start Date	End Date	Action
2013	2-KS-1-36-13	7/15/2013	7/31/2013	Close sport fishery
2013	2-KS-1-43-13	7/25/2013	7/31/2013	Allow harvest of fish less than 20 inches or greater than 55 inches
2013	2-KS-1-45-13	7/28/2013	7/31/2013	Close sport fishery
2013	2-KS-1-46-13	8/1/2013	8/15/2013	Prohibit use of bait and limit gear in the sport fishery
2014	2-KS-1-04-14	5/1/2014	7/31/2014	Close sport fishery for early-run
2014	2-KS-1-26-14	7/1/2014	7/31/2014	Prohibit use of bait in the sport fishery
2014	2-KS-1-27-14	7/10/2014	7/31/2014	Prohibit retention of Chinook Salmon in personal use fishery
2014	2-KS-1-40-14	7/19/2014	7/31/2014	Restrict sport fishery to unbaited single barbless hook, no retention
2014	2-KS-1-42-14	7/26/2014	7/31/2014	Close sport fishery
2015	2-KS-1-05-15	5/1/2015	7/31/2015	Close sport fishery for early-run
2015	2-KS-1-35-15	7/1/2015	7/31/2015	Prohibit use of bait in the sport fishery
2015	2-KS-1-46-15	7/25/2015	7/31/2015	Restore use of bait in sport fishery, no Chinook retention
2016	2-KS-1-03-16	5/1/2016	7/31/2016	Close sport fishery for early-run
2016	2-KS-1-19-16	6/18/2016	6/30/2016	Allow sport harvest from mouth of river to Slikok Creek
2016	2-KS-1-24-16	7/1/2016	7/31/2016	Prohibit use of bait in the sport fishery
2016	2-KS-1-28-16	7/1/2016	7/31/2016	Maintain bait prohibition in the sport fishery
2016	2-KS-1-33-16	7/9/2016	7/31/2016	Restore use of bait in the sport fishery

Federal Subsistence Fisheries Regulations in the Cook Inlet Area

In 2002, Federal subsistence regulations for harvest in the Cook Inlet Area were established for salmon, trout, and Dolly Varden. A Federal subsistence permit was required and seasons, harvest and possession limits, and methods and means for take were the same as those in Alaska sport fishing regulations. This fishery was established as an interim measure to provide some subsistence opportunity in the Cook Inlet Area for Federally qualified rural residents. Initially, there were no customary and traditional use determinations for salmon, trout and Dolly Varden in Cook Inlet; so all rural residents of Alaska could harvest under Federal regulations.

In January 2006, the Federal Subsistence Board made customary and traditional use determinations for Hope and Cooper Landing residents for all fish in the Kenai River Area, and for Ninilchik residents for all fish within the Kasilof River drainage within the Kenai National Wildlife Refuge. In November 2010, the Board made a customary and traditional use determination for Ninilchik residents for all fish in the Kenai River Area within the Kenai National Wildlife Refuge and the Chugach National Forest.

For the 2007 regulatory cycle, two additional steps were included in the usual analysis and review process for regulatory proposals; 1) the formation of a stakeholder subcommittee of the Southcentral Alaska Subsistence Regional Advisory Council (Council), which met twice in Soldotna in February 2007, to review the analyses and suggest changes, and 2) a review by the NTC, the proponent of some of the proposals, to assess, and provide feedback on, the changes suggested by the subcommittee, and to suggest other changes. Both of these steps took place prior to the Council's March 2007 meeting. Several suggested changes which resulted from these extra steps, were incorporated into the analyses as modifications to the proposed regulations and presented to the Council and, ultimately, the Board (OSM

2007).

At the time, the Board typically held public meetings twice a year to make decisions on proposals to change Federal subsistence regulations throughout the State; once in the Spring (April or May) for wildlife regulations and once in the Winter (December or January) for fisheries proposals. In May 2007, the Board held a third public meeting solely to hear public testimony on, deliberate and make decisions for the Kenai Peninsula fisheries proposals of the 2007 regulatory cycle. The meeting lasted three days (FSB. 2007a).

During its May 2007 meeting, the Board adopted proposals that established dip net/rod and reel salmon fisheries on the Kasilof and Kenai Rivers; increased previously established harvest, possession, and annual limits for salmon and selected resident species for existing rod and reel fisheries on the Kasilof and Kenai River drainages; and allowed use of up to two single or treble hooks and bait for rod and reel fishing during specified dates for both systems. Sockeye Salmon annual harvest limits were set at 4,000 fish, with an annual household limit of 25 for each permit holder, and an additional 5 for each household member; late-run Chinook Salmon annual harvest limits were set at 1,000 fish, with an annual household limit of 10 for each permit holder, and an additional 2 fish per each household member; Coho Salmon annual harvest limits were set at 3,000 fish, with an additional household limit of 20 for each permit holder, with an additional 5 fish for each household member; and Pink Salmon annual harvest limits were set at 2,000 fish, with an annual household limit of 15 for each permit holder, and an additional 5 per each household member. Any Rainbow Trout or Dolly Varden 18 inches or greater in length were required to be released alive.

Additionally, during the 2007 regulatory cycle, there were several proposals that included requests for the use of gillnets in the Kenai River drainage. These included Proposals FP07-27B and C (by NTC) and FP07-29 (by Mr. Robert Gibson of Cooper Landing). FP07-27B and C requested a community set gillnet fishery for Chinook, Sockeye, and Pink Salmon in the Kasilof and Kenai Rivers and a community set gillnet fishery for Coho Salmon in the Kenai River. FP07-29 requested that gillnets with different mesh sizes be used to harvest Sockeye Salmon, Coho Salmon, Pink Salmon, Rainbow Trout, Dolly Varden, Lake Trout, and whitefish species in several lakes in the Kenai River drainage. The recommendation of the Council was to move forward with only the dip net and rod and reel salmon fisheries described above. Justification for this recommendation was that a dip net fishery at Moose Range Meadows provides additional subsistence opportunity and that limiting this fishery to dip nets from boats addresses habitat and private property concerns in this area. The Council also stated that allowing incidental harvest of Rainbow Trout and Dolly Varden/Arctic Char less than 18 inches in dip net fisheries below Skilak Lake is consistent with conservation practices and provides a reasonable alternative to expanded harvest opportunity in the rod and reel fishery. Lastly, the Council stated that providing up to two baited hooks in the rod and reel fishery below Skilak Lake from January 1 to August 31 provides an additional opportunity for Chinook and Coho Salmon, and is consistent with conservation practices for these species.

During the 2008 regulatory cycle, the NTC submitted Proposal FP08-08 to allow the salmon dip net fishery to occur from the shore (river bank), as well as from boats, within the Federal public waters of the Kenai River in the Moose Range Meadows area. The Council voted 5-4 to support the proposal, after a lengthy discussion during its fall 2007 meeting. The Council decided that allowing subsistence dip net fishing

from shore as well as from a boat would provide more of a subsistence preference in this area of the Kenai River. The Council also stated that limiting the dip net fishery at Moose Range Meadows to boats would limit participation by Federally qualified subsistence users without access to a boat and that while there are habitat and private property concerns in the area, it should be possible to allow some subsistence fishing from shore on Federal public lands that can be accessed without the use of a boat. During the Board's December 2007 meeting, some Board members expressed concerns about allowing dip netting from the shore because this area is prime Chinook Salmon rearing habitat with bank closures in place for habitat protection, that the area was not a safe place to use dip nets, and that opening the area to fishing from the shore would not be consistent with recognized principles of fish and wildlife management. Other Board members pointed out that adoption of the proposal would provide a "meaningful subsistence preference". A motion was put forth to support Proposal FP08-08. The motion failed on a three/three tie vote (FSB. 2007b).

Also during the 2008 cycle, the Council submitted Proposal FP08-09 to establish a temporary community fish wheel on both the Kenai and Kasilof Rivers for residents of Ninilchik, Hope, and Cooper Landing. The Council contended that the fish wheels would provide a more effective means for Federally qualified subsistence users to harvest salmon. The Council requested the establishment of fish wheels as a gear type be temporary to evaluate the feasibility of operating this type of gear. The Board, at its December 2007 meeting, adopted the proposal, with modification, to allow fish wheels to be classified as a gear type, but only in the Kasilof River. The Board felt that there were too many logistical issues to be dealt with on the Kenai River, especially with three communities having the possibility of running a single fish wheel. The Board specified that only one fish wheel with a live box would be allowed in the upper mainstem of the Kasilof River. A permit would be required to use the fish wheel and that an operational plan must be submitted to and approved by the Federal in-season manager, before the permit would be awarded. Individuals operating the fish wheel would need to have a Federal subsistence fishing permit and all harvest limits on the permit would apply to the fish wheel. Salmon harvested by the fish wheel were included as part of each household's annual limit and all fish harvested were to be reported to the in-season manager with 72 hours of leaving the fishing location. The Board, at its January 2013 meeting, supported FP13-15 to remove the expiration date for the community fish wheel salmon fishery on the Kasilof River allowing continued operation of the fish wheel (FSB 2013).

For the 2009 regulatory cycle, the NTC submitted Proposal FP09-08, again requesting the Board to allow the salmon dip net fishery to occur from the shore (river bank), as well as from boats, within the Federal public waters of the Kenai River in the Moose Range Meadows area. Proposal FP09-08 was put on the Board's consensus agenda due to opposition of the proposal by both the Council and the Alaska Department of Fish and Game (ADF&G). The Council's stated reason for opposing FP09-08 was that "no Federal lands are available to allow fishing from the shore without serious damage to the river bank." The Board adopted the consensus agenda without discussion. As a result, Proposal FP09-08 failed (FSB 2009).

For the 2015 regulatory cycle, Proposal FP15-10 was submitted by NTC to establish a community gillnet fishery in the Kenai River in order to provide additional subsistence harvest opportunities for residents of Ninilchik. The proponent requested the use of a single community gillnet that was 10 fathoms or less in length for the harvest of salmon. Similar to the fish wheel regulations, an operational plan would be

required to be developed by a local organization on behalf of Ninilchik residents, and approved by the Federal in-season manager before a fishing permit would be authorized. The operational plan would include deployment locations, fishing times, and a methodology for distributing the harvest. All salmon taken in the Kenai River community gillnet fishery would be included as part of the existing annual households' limit for Ninilchik residents, and fishing for salmon would be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species was reached or for other reasons as required. Proposal FP15-10 was adopted at the Board's January 2015 public meeting (FSB 2015).

From 2010 to 2015, numerous Federal special actions were put in place to protect Chinook salmon in the Kenai River due to conservation concerns (**Table 2**)

Table 2. Federal special actions for Chinook Salmon in Federal public waters of the Kenai River drainage between 2010 and 2015

Chinook Salmon Federal Special Actions for Federal public waters of the Kenai River				
Year	Number	Start Date	End Date	Action
2010	10-KS-01-10	6/4/2010	7/14/2010	Close to subsistence fishing for early-run
2010	10-KS-02-10	6/15/2010	7/14/2010	Reopen under restricted subsistence harvest guidelines for early-run
2010	10-KS-03-10	6/15/2010	8/31/2010	Open to subsistence fishing under normal regulations
2011	10-KS-02-11	7/15/2011	7/31/2011	Restrict harvest of early-run
2012	10-KS-01-12	6/15/2012	7/14/2012	Restrict harvest of early-run
2012	10-KS-02-12	6/22/2012	7/14/2012	Close to subsistence fishing for early-run
2012	10-KS-03-12	7/16/2012	7/31/2012	Close to subsistence fishing for late-run
2013	10-KS-02-13	6/20/2013	7/14/2013	Close to subsistence fishing for Chinook Salmon
2013	10-KS-03-13	7/15/2013	8/15/2013	Extend closure of subsistence fishing for Chinook Salmon
2014	10-KS-01-14	6/19/2014	7/14/2014	Close to subsistence fishing for Chinook Salmon
2014	10-KS-02-14	7/15/2014	8/17/2014	Extend closure of subsistence fishing for Chinook Salmon
2015	10-KS-01-15	6/18/2015	8/15/2015	Close to subsistence fishing for early-run

Current Events Involving the Species

There has been a substantial amount of activity related to subsistence fisheries on the Kenai River since January 2015. This includes submission of over 700 Requests for Reconsiderations (RFR) to the Board, proposals to rescind the community gillnet regulations (FP17-06 &07), a proposal to alter the community gillnet regulations (FP17-10), litigation related to USFWS rejection of NTC submitted operational plans for the fishery, Emergency Special Action FSA16-02 that temporarily removed regulatory conflicts that had previously prevented the community gillnet fishery from operating in 2016, and this proposal.

The more than 700 RFRs submitted request that the Board reverse its decision and rescind regulations generated as a result of adopting FP15-10. This is the largest number of RFRs received by the Federal Subsistence Management Program to date in response to any regulatory proposal adopted by the Board. Two of the groups that filed RFRs also submitted proposals for the 2017 -2019 Fisheries Regulations requesting that the Board rescind the regulations generated by FP15-10. The proponents of regulatory proposal FP17-06 are Federally qualified subsistence users from two of the three communities that have a Customary and Traditional Use Determination for fish in the Kenai River (Hope and Cooper Landing).

Proposal FP17-07 was jointly submitted by the Assistant Regional Director for Fisheries and Ecological Services, and the Regional Chief of Refuges, U.S. Fish and Wildlife Service, Region 7, Alaska. To date, no decision has been made on the RFRs.

In October 2015, NTC filed a lawsuit against the Federal Subsistence Board for its failure to override the USFWS decision to not approve an operational plan for the community gillnet on the Kenai River in 2015. The regulation adopted by the Board at its January 2015 meeting required NTC to submit an operational plan (to be approved by the Federal in-season manager) to address conservation concerns raised by biologists in their opposition to Proposal FP15-10. NTC's plan in 2015 was not considered because river closures were in place. Immediately before the Board's July 2015 work session, NTC submitted an emergency special action request asking the Board to override the Federal in-season manager's decision. The Board elected to not grant the request. Following this decision, NTC filed suit. *Ninilchik Traditional Council v. Towarak et al.,* Case No. 3:15-cv-0205 JWS (D. Alaska).

On June 28, 2016, the NTC submitted a Special Action Request (FSA 16-02) to the Board to implement the subsistence gillnet fishery for the Kenai River. On July 14, 2016, NTC amended FSA 16-02 to reflect that portions of the initial request were no longer valid due to the passage of time.

On July 27, 2016, the Board approved Emergency Special Action Request FSA16-02 with modification, providing for the implementation of a Kenai River community gillnet fishery for residents of Ninilchik. The Board designated this fishery as experimental to see of a set gillnet could be used in certain locations on the Kenai River with minimal impact to Chinook Salmon, Rainbow Trout and Dolly Varden. The Board stipulated that the fishery may be conducted in the Moose Range Meadows area of the Kenai National Wildlife Refuge, with a gillnet up to 10 fathom (60') in length with 5 ¼" mesh, anchored to the bank. The fishery allowed for the retention of up to 50 Chinook Salmon, all other salmon within current Federal regulation limits, and any incidentally caught Rainbow Trout and Dolly Varden. Genetic samples were to be collected from all Chinook Salmon. The State bank closures, as adopted into Federal subsistence regulations, were temporarily removed to allow for the Kenai River community gillnet fishery; however, Kenai National Wildlife Refuge regulations at 50 CFR 36.39(i) remained in effect and prohibited access within an area 25 feet upland of ordinary high water on either shore of the Kenai River between RM 25.1 and RM 28.1.

At the conclusion of the 2016 experimental community gillnet fishery on August 15, the Ninilchik community has caught 755 Sockeye Salmon, 7 Pink Salmon, 1 Chinook Salmon, 12 Coho Salmon and 2 Dolly Varden, while harvesting 723 Sockeye Salmon, 6 Pink Salmon, 1 Chinook Salmon, and 12 Coho Salmon. They also have released 29 Sockeye Salmon, 1 Pink Salmon, and 2 Dolly Varden. No Rainbow Trout or Steelhead were caught, harvested, or released during the experimental community gillnet fishery.

Biological Background and Harvest History

All Pacific salmon species spawn within the Kenai River drainage, and the runs are harvested in State commercial, sport, personal use, and educational fisheries, as well as Federal subsistence fisheries (Begich et al. 2013). The State's Upper Cook Inlet Salmon Management Plan (5 AAC 21.363) establishes long-term direction for the management of Upper Cook Inlet salmon stocks. It provides mandatory criteria

that the Alaska Board of Fisheries must consider when adopting management plans for specific fish stocks, and establishes a set of guiding principles for the adoption of regulations governing salmon fisheries. The plan focuses the commercial fisheries take on late-run Sockeye Salmon, while early-run Sockeye, early- and late-run Chinook, and Coho Salmon runs are primarily managed for sport fisheries. Considerable information has been compiled on abundance and distribution of Sockeye, Chinook, and Coho Salmon runs, but little information is available on either Pink or Chum Salmon runs. Spawning escapement goals have been set for Sockeye and Chinook Salmon runs, and sustainable harvest levels have been estimated for Sockeye, Chinook, and Coho Salmon. Escapement is monitored by sonar at RM 14 between mid-May and mid-August. Additionally, a gillnet at RM 9 is used to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a).

Chinook Salmon in the Kenai River

A series of radio-telemetry studies and in-river abundance estimation techniques have identified differential run times and spawning distributions for Chinook Salmon returning to the Kenai River. Indices of run strength for Chinook Salmon entry times into the Kenai River indicate a bimodal distribution with the early component of the run peaking between 8 and 20 June and a later component peaking between 17 and 25 July (Hammarstrom and Larson 1986; Conrad and Larson 1987; Conrad 1988; Carlon and Alexandersdottir 1989; Alexandersdottir and Marsh 1990; Miller et al. 2011; Reimer 2013). Chinook Salmon entering the Kenai River during July and August are considered "late-run" fish and almost exclusively spawn during August and early September in the mainstem Kenai River (Burger et al.1985; Bendock and Alexandersdottir 1991, 1992; Reimer 2013). Each run, early and late, are managed independently primarily because of differences in run size, run timing, and spatial distribution of spawning fish.

Chinook Salmon abundance in the Kenai River and throughout Alaska has been decreasing since around 2007 (ADF&G Chinook Salmon Research Team 2013). Some stocks are also exhibiting declining trends in size and age, including Kenai River Chinook Salmon that spawn on the Kenai National Wildlife Refuge, either in tributary streams (Boersma and Gates 2016) or the main-stem Kenai River (Lewis et al. 2015). Several potential, but as yet unproven, causal factors for this downward trend in abundance, include: size-selective harvest, competitive interactions, and changing environmental conditions (Lewis et al. 2015). Mainstem spawning areas were identified between RM 13 and RM 80, with higher spawning densities documented between RMs 14 – 15, 17 – 21, and 46 – 47, and with the section between RM 46 and 47 shown to support the highest number of spawners (Reimer 2013). Of the 50 river miles in the drainage available for sport fishing for Chinook Salmon (all below Skilak Lake), only about 5 miles are within Federal public waters (RM 48 – 45.5 and RM 29 – 26.5).

Early-Run Chinook Salmon

Early-run Chinook Salmon enter the Kenai River from about mid-May through late-June. Most early-run Chinook Salmon spawn in Kenai River tributaries below the outlet of Skilak Lake, and most of these spawners are bound for the Killey and Funny Rivers. In general, about 80% of the early-run Chinook Salmon spawn in either the Funny or the Killey Rivers, while only about 7% of all early-run Chinook Salmon spawn in tributaries above Skilak Lake (Bendock and Alexandersdottir 1992, Burger et al. 1983).

In the mainstem Kenai River, staging behavior (preparing for spawning) generally runs from early- to mid-July with most spawning occurring from mid-July through August. During this time a small segment of early run Chinook Salmon (7-20% of the total run) also utilize the main stem Kenai River to spawn (Bendock and Alexandersdottir 1992, Burger et al. 1983). For Chinook Salmon, the stretch of river encompassing river miles 46 and 47 on the Kenai National Wildlife Refuge represents some of the highest densities of spawners in the entire watershed (Reimer 2013).

The State's optimal escapement goal (OEG)[1] range for early-run Chinook Salmon is 5,300 to 9,000 fish for the Kenai River system. Escapement is monitored by sonar at RM 14 between mid-May and mid-August. Additionally, a gillnet at RM 9 is used to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a). The spawning escapement for the years 2006 – 2015 averaged 7,473 fish, with a range of 4,460 fish in 2013 to 13,282 in 2006. The spawning escapement in 2014 was 5,776 fish and in 2015 was 6,190 fish (ADF&G 2016b).

The State's Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 57.160) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. This plan also tries to ensure that the age and size composition of the harvest closely approximates that of the run. The primary harvest of this run occurs within the sport fishery. Most of the sport harvest is taken within the Kenai River, although the Deep Creek marine sport fishery takes an undetermined, but likely small number, of Kenai River early-run Chinook salmon based on tag recoveries (King and Breakfield, 2002). The State manages other fisheries to minimize the harvest of this run. The commercial and personal use fisheries open after most early-run Chinook Salmon have entered the Kenai River, and the personal use fishery has a seasonal limit of 1 Chinook Salmon per household. The Kenaitze Indian Tribe's educational fishery has historically had a seasonal limit of 300 Chinook salmon, but in 2014 the limit was decreased to 50 Chinook salmon to conserve returning fish.

The early-run Chinook Salmon OEG range mentioned above is set by this plan. To determine whether or not the escapement goal will or will not be achieved, daily sonar estimates of Chinook Salmon passing the sonar site (at RM 14) and estimates of the sport harvest from creel surveys are utilized in a run timing model to project total in-river return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the OEG range, the fishery is incrementally restricted to catch-and-release only and ultimately to closure, if necessary. Bait cannot be used until escapement is projected to fall within the OEG range. To help prevent the harvest of 5-ocean fish[2], there is a slot limit that specifies the size of Chinook Salmon that may be retained (less than 42 inches in length or greater than 55 inches in length). The slot limit is in effect from 1 January to 30 June from the Kenai River mouth upstream to the outlet of Skilak Lake, and from 1 to 14 July from the Slikok Creek upstream to the outlet of Skilak Lake.

All sport fishing for early-run Chinook Salmon in the Kenai River occurs below Skilak Lake. The bag and

[1] An optimum escapement goal, which may be expressed as a range, allows for sustainable runs based on biological needs of the stock and ensures healthy returns for commercial, sport, subsistence, cost-recovery, and personal use harvests. Optimum escapement goals are set by the State of Alaska Board of Fisheries (ADF&G. 2016a).
[2] 5-ocean fish have spent five years in the ocean before returning to their natal streams to spawn.

possession limit is 1 Chinook Salmon per day and 1 in possession. Additionally, there is an annual limit of 2 Chinook Salmon from the Kenai River. Only Chinook Salmon less than 42 inches or greater than 55 inches can be retained in the sport fishery. Sport fishery harvests of early-run Kenai River Chinook Salmon during 2004-2013 have ranged from 0 to 4,693, with an average of 2,334 (Begich et al. 2013). The Kenaitze Indian Tribe's educational fishery harvest has ranged from 11 to 76 early-run Chinook Salmon during 2004–2013, with an average of 42 fish (Begich et al. 2013). No estimates of the number of early-run Kenai River Chinook salmon harvested in commercial or personal use fisheries are available, but due to the timing of these fisheries these harvests are assumed to be negligible.

Late-Run Chinook Salmon

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

The sustainable escapement goal (SEG)[3] range for late-run Chinook Salmon is 17,800 to 37,500 fish. As with the early run, escapement is monitored by sonar at RM 14 between mid-May and mid-August. Additionally, a gillnet at RM 9 is used to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a). The spawning escapement for the years 2006 – 2015 averaged 26,613 fish with a range of 16,527 fish in 2010 to 48,950 in 2006. The spawning escapement in 2014 was 17,446 fish and in 2015 was 22,654 fish (ADF&G 2016b).

The State's Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. While this run is primarily managed for use by the sport fishery, the incidental harvest in commercial fisheries is substantial. Most of the sport harvest is taken below the Soldotna Bridge within the Kenai River, although some are taken in marine waters in the Deep Creek sport fishery. The bag and possession limit is 1 Chinook Salmon per day and 1 in possession. Additionally, there is an annual limit of 2 Chinook Salmon from the Kenai River. Most of the commercial harvest is taken in the East Side set gillnet fishery. The personal use fishery has a seasonal limit of 1 Chinook Salmon per household, and the Kenaitze Tribe's educational fishery had a seasonal limit of 50 Chinook Salmon in 2014. To determine whether or not the escapement

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

goal will or will not be achieved, daily sonar estimates of Chinook Salmon passing the sonar site and estimates of the sport harvest from creel surveys are utilized in a run timing model to project total inriver return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the SEG range, the fishery is restricted by several steps, including prohibiting use of bait, to catch-and-release only with barbless hooks, and ultimately to closure, if necessary.

The harvest of late-run Chinook Salmon is monitored in the commercial, personal use, sport, and educational fisheries (Begich et al. 2013). Commercial fishery harvests during 2004–2013 have ranged from 640 to 16,925 Kenai River late-run Chinook Salmon, with an average of 7,380 fish. Harvests in the Deep Creek marine sport fishery have ranged from 30 to 996 Kenai River late-run Chinook Salmon during 2003–2012, with an average of 446 fish. Sport fishery harvests in the Kenai River have ranged from 103 to 18,214 late-run Chinook Salmon during 2003-2012, with an average of 9,926. Personal use dip net fishery harvests have ranged from 11 to 1,509 late-run Chinook Salmon during 2004–2013, with an average of 904 fish. Kenaitze Tribe's educational fishery harvests have ranged from 0 to 21 late-run Chinook salmon during 2004–2013, with an average of 9 fish.

Catch and Release Mortality

A number of studies have been conducted to examine unintended mortality in catch and release fisheries. Rates of unintended mortality from catch and release fishing vary across studies due to factors such as species, life stage, water temperature, and gear type. A literature review of 18 studies by Taylor and White (1992) found a 3.8 percent mortality rate associated with fly-fishing, a 4.9% rate associated with lures, and a 31.4% rate associated with bait. Another review of 7 studies by Schill and Scarpella (1997) found a 4.5% mean mortality rate for barbed hooks compared to 4.2% for barbless. Lindsay et al. 2004 found a 12.2% rate of mortality in Chinook Salmon in the lower Willamette River of Oregon, while Bendock and Alexandersdottir (1990) found rates of 13% for male and 7% for female Chinook Salmon in the Kenai River. DeCicco (1994) found rates below 2% for Dolly Varden from the Nome and Snake rivers of Northwest Alaska. Estimated catch and release mortality ranges for the early-run Chinook Salmon sports fishery in the Kenai River range from 0 to 257 fish (Begich et al. 2013). Estimated catch and release mortality ranges for the late-run Chinook Salmon sports fishery in the Kenai River range from 79 to 1,267 fish, which equates to an average estimated mortality rate of around 1% of the in-river run total before sport fish harvest has been removed (Begich et al. 2013). Although no estimates of catch and release mortality exist for Rainbow Trout, a recent stock assessment performed in the Kenai River drainage (Eskelin and Evans 2013) reported that over 92% of the Rainbow Trout were observed to have hooking injuries. The authors suggested that it was likely that the trout in some sections of the river are caught and released multiple times. No estimates of catch and release mortality exist for Dolly Varden.

Overall, some amount of mortality is a recognized consequence of catch and release fisheries, including those currently authorized in the Kenai River.

Gillnet Release Mortality

Research has also been conducted to examine the rates of mortality for a variety of fish caught and released from gill and tangle nets (WDFW 2014). The studies summarized in this literature review come from 13

papers based in a variety of locations ranging from Bristol Bay to Finland. The study sites were mainly concentrated in Washington or British Columbia, with only two sites in Alaska (Bristol Bay and Kodiak). The study years for these projects ranged from 1955 to 2007 (median ~ 2000) and a majority of them focus on salmonid species being captured and immediately released in estuarine locations. Variables considered in these studies included mesh size, fish size, soak time, water temperature, location type, maturity state, and migration duration. Those studies that focus on fish released from gillnets demonstrated a wide range of mortality. Immediate mortality rates ranged between 0.5% and 98% depending on the variables considered and within the context of the studies considered in the literature review. For example, the lowest mortality rate was for Chinook Salmon in the spring (cooler water) in a freshwater environment with a 5.5 inch mesh gillnet whereas the 98% mortality was in July (warmer water) in an estuary environment with an 8 inch mesh gillnet. Long-term mortality rates ranged between 2.3% and 60.6%, again depending on the variable and within the context of the studies considered in the literature review.

Overall, unintended mortality is a recognized consequence of releasing fish captured in gillnets.

Federal Subsistence Harvest

Rural residents of Cooper Landing, Hope and Ninilchik have harvested fish in the Kenai River drainage under Federal subsistence regulations since 2007. In addition to the rod and reel fishery in Federal waters of the Kenai River, there exist three areas in the Kenai River drainage in which Federally-qualified subsistence users of Cooper Landing, Hope and Ninilchik may harvest salmon by dip net and rod and reel, as well as a separate community gillnet fishery for the residents of Ninilchik.

Russian River Falls

Cooper Landing and Hope residents have fished almost exclusively in the Russian River Falls area over the past nine years. Cooper Landing residents have reported a harvest of 8,609 Sockeye Salmon since 2007; 7,905 in the dip net fishery with an annual average of 878 fish, and 704 in the rod and reel fishery with an average of 89 fish (**Table 3**). Hope residents have reported a harvest of 2,357 Sockeye Salmon since 2007; 2,142 in the dip net fishery with an average of 238 fish, and 215 Sockeye Salmon in the dip net fishery with an annual average of 24 fish (**Table 4**). Ninilchik residents have harvested in the Russian River Falls area to a much lesser extent. They have utilized the dip net fishery in six of the nine years that it has been a harvest option, with a reported harvest of 155 Sockeye Salmon, and an annual average of 26 fish over the six years. They have utilized the rod and reel fishery three of the nine years (2007–2009), with a reported harvest of 281 Sockeye Salmon; an average of 94 for the three years (**Table 5**). There has been no reported harvest of Chinook Salmon in the Russian River Falls area under Federal regulation.

Kenai River below Skilak Lake, RM 45.5 to RM 48

For the years 2007–2015, a total of 30 Sockeye Salmon have been reported as harvested in this area, all by Ninilchik residents using dip nets, and all in the year 2009 (**Table 5**). There has been no reported harvest by Cooper Landing and Hope residents in this area (**Tables 3 & 4**). There has been no reported harvest of Chinook Salmon in this area under Federal regulation.

Kenai River, Moose Range Meadows, RM 26.5 to RM 29

Cooper Landing residents reported harvesting 44 Sockeye Salmon in the rod and reel fishery for the years 2011–2015, but have not reported harvest of any fish in the dip net fishery for this area (**Table 3**). Hope residents have not reported harvest of any fish in either the dip net or the rod and reel fisheries in this area (**Table 4**). In 2007, Ninilchik residents reported a harvest of 12 Sockeye Salmon in the dip net fishery in this area. There has been no reported harvest in the dip net fishery since. In the rod and reel fishery, Ninilchik residents reported a total harvest of 741 Sockeye Salmon for the years 2008–2015, an annual average of 93 fish. They also reported harvesting 5 Coho Salmon in 2008 (**Table 5**). There has been no reported harvest of Chinook Salmon in the Moose Range Meadows area under Federal regulation

Table 3. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Cooper Landing Residents

Dip Net Fisheries

	Russian River Falls			Kenai River, RM 45.5 to 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	437	n/a	n/a	0	0	0	0	0	0	437
2008	960			0	0	0	0	0	0	960
2009	706			0	0	0	0	0	0	706
2010	622			0	0	0	0	0	0	622
2011	794			0	0	0	0	0	0	794
2012	998			0	0	0	0	0	0	998
2013	996			0	0	0	0	0	0	996
2014	1,216			0	0	0	0	0	0	1,216
2015	1,176			0	0	0	0	0	0	1,176
TOTAL	7,905									7,905
AVG	878									878

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	108	7					0	0	0	115
2009	46	9					0	0	0	55
2010	57	0					0	0	0	57
2011	46	0					6	0	0	52
2012	43	0					11	0	0	54
2013	49	4					12	0	0	61
2014	97	2					9	0	0	108
2015	89	0					6	0	0	95
TOTAL	704	27					44	0	0	771
AVG	78	3					5			86

Source: USFWS 2007 – 2015

Table 4. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Hope Residents

Dip Net Fisheries

	Russian River Falls			Kenai River, RM 45.5 to 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	85	n/a	n/a	0	0	0	0	0	0	85
2008	280			0	0	0	0	0	0	280
2009	103			0	0	0	0	0	0	103
2010	172			0	0	0	0	0	0	172
2011	159			0	0	0	0	0	0	159
2012	287			0	0	0	0	0	0	287
2013	252			0	0	0	0	0	0	252
2014	402			0	0	0	0	0	0	402
2015	402			0	0	0	0	0	0	402
TOTAL	2,142									2,142
AVG	238									238

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	6	0					0	0	0	6
2009	18	0					0	0	0	18
2010	0	0					0	0	0	0
2011	0	0					0	0	0	0
2012	0	0					0	0	0	0
2013	19	0					0	0	0	19
2014	3	0					0	0	0	3
2015	0	0					0	0	0	0
TOTAL	215	5								220
AVG	24	0.6								24

Source: USFWS 2007 – 2015

Table 5. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Ninilchik Residents

Dip Net Fisheries

	Russian River Falls			Kenai River, RM 45.5 to 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	5	n/a	n/a	0	0	0	12	0	0	17
2008	41			0	0	0	0	0	0	41
2009	0			30	0	0	0	0	0	30
2010	10			0	0	0	0	0	0	10
2011	0			0	0	0	0	0	0	0
2012	0			0	0	0	0	0	0	0
2013	19			0	0	0	0	0	0	19
2014	54			0	0	0	0	0	0	54
2015	26			0	0	0	0	0	0	26
TOTAL	155			30			12			197
AVG	17			3			1.3			22

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	11	0					202	5	0	218
2009	101	0					93	0	0	194
2010	0	0					42	0	0	42
2011	0	0					84	0	0	84
2012	0	0					75	0	0	75
2013	0	0					61	0	0	61
2014	0	0					115	0	0	115
2015	0	0					69	0	0	69
TOTAL	281	5					741	5		1,032
AVG	31	0.6					82	0.6		115

Source: USFWS 2007 – 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 are related to this period. Homesteading in the Homer region occurred from 1915 through 1940. With the construction of roads and local oil development after in the 1950s, the population of the Kenai Peninsula increased substantially through in-migration of people born outside Alaska.

From the early 1900s, the annual subsistence pattern of the *Dena'ina* included commercial fishing in the spring and summer at the mouth of the Kenai River before moving up-river in the fall to harvest Coho Salmon and freshwater fish, hunt moose, and trap furbearers. This cycle continued until the 1940s when the creation of the Kenai National Moose Range disrupted traditional harvest patterns. Despite new federal refuge enforcement efforts, many *Dena'ina* continued to access their Stepanka camps, long used settlements up the Kenai River near Skilak Lake (Fall et al. 2004:16–20).

Commercial and subsistence fishing were also an important aspect of the annual cycle of the Kenai Peninsula homesteaders. In freshwater, gillnets and seines were used in the Kenai, Skilak, and Tustumena Lakes to harvest lake trout, grayling, whitefish, and char. Trappers in the upper Kenai River area maintained gillnets and caught salmon and trout for personal use. Other uses mentioned were taking Coho Salmon through the ice in the winter and steelhead below Skilak Lake in the late 1940s and early 1950s (Fall et al. 2004:20-21). Andrew Berg, who lived from 1869 to 1939 and was a guide on the Kenai Peninsula, documented his use of subsistence resources including harvesting trout in Tustumena Lake and Dolly Varden, salmon, and whitefish at the mouth of Indian Creek (Cassidy and Titus 2003).

Subsistence fishing in the freshwaters of the Kenai Peninsula was prohibited from 1952 until the Federal Subsistence Board created a subsistence fishery in 2002 which mirrored the State sport fishing regulations. Since statehood, legal availability of fishery resources in Federal public waters has been defined by State sport fishing regulations, and these regulations do not provide for harvest of all species or harvest by traditional methods and means. In this area, preferred traditional methods and means include nets, an efficient method and means of harvest for subsistence users who traditionally harvest as much fish as they can process at once. Rod and reel is considered an authorized subsistence gear type under Federal subsistence regulations and under State regulations in some parts of the state. In some cases under State regulations, rod and reel has been recognized as traditional gear in places where fish fences or traps are no longer a legal means to harvest fish and rod and reel is the only legal alternative (Williams et al. 2005:31–32).

In 1952, gillnets were made illegal in many freshwaters, and the Kenai Peninsula *Dena'ina* ceased using gillnets during their fall occupation of their upriver harvest sites. The Stepanka fishery, that had been a traditional, long-standing source of salmon for the *Dena'ina* (Kenaitze) Indians, was closed. As a result of this closure, snagging became the primary harvest method until it was made illegal in 1973. Local residents turned to sport fishing without snagging, and continued to fish the beaches of Cook Inlet with gillnets in the State subsistence fishery. In the 1970s, sport fishing had grown in popularity and the Kenai had become a favorite spot for fishing and recreation. The Kenai Peninsula is unique in that rural communities are interspersed among much larger nonrural communities. By the early 1980s the Alaska Board of Fisheries added more restrictions on subsistence and personal use fishing along the Cook Inlet beaches, closing beaches to subsistence gillnetting. By the mid-1990s, only two personal use fisheries remained at the mouth of the Kenai and Kasilof rivers (Fall et al. 2004:22–23; 30).

Regulations relating to areas, seasons, and methods have changed consistently over the past 54 years, and have become more restrictive, requiring residents to take different approaches to obtaining subsistence resources. For example, in the case of salmon, as regulations and conditions have changed, residents have adapted their traditional practices to continue to obtain salmon—trade it, buy it, or harvest it in new ways under various regulatory regimes (Georgette 1983:186–187). In 1993, as the result of a lawsuit filed by the Kenaitze Tribe, a State judge ordered the development of educational fisheries for the NTC, the Knik Tribal Council, the Native Village of Eklutna and the Kenaitze Tribe (Loshbaugh 1993:1, 14). The educational fishery provided another means for residents to harvest salmon using gillnets. The educational permits, however, were a compromise: "Villagers—who have traditionally focused on early-run king salmon will be catching mostly reds under the proposed permit" (Loshbaugh 1993:14).

Additional Issues for Board Consideration

As currently written, Federal subsistence regulations for the Kenai and Kasilof rivers are confusing and at times contradictory. The Board may want to consider directing OSM to submit a regulatory proposal to review and revise the Cook Inlet subsistence fisheries regulatory section (§___.27(e)(10)(iv)) during the next fisheries regulatory cycle to clarify and simplify regulatory language in an effort to resolve unnecessary complexities and inconsistencies between the regulations for both rivers.

Additionally, it may be worth the Board's consideration to remove the annual total harvest limits for the Kenai dip net/rod and reel fishery. These limits have been the focus of much discussion lately, including in this proposal and the request for reconsideration submitted for the Kenai River community gillnet fishery. The limits were initially associated with a proposal by the NTC in 2007 for a set gillnet fishery in the Kasilof and Kenai rivers (FP07-27B). The proposed totals (1,000 Chinook Salmon, 4,000 Sockeye Salmon, and 2,000 Pink Salmon) were to be a set quantity that would be allowed for harvest in the gillnet fishery proposed in 2007 to span both river systems, and were not based on a biological analysis. During the 2007 Federal Board Meeting cycle for the Kenai Peninsula fisheries, the OSM used this and numerous other proposals to generate proposed area wide regulations. One of the outcomes of this process was to set annual total harvest limits for the Kenai dip net/rod and reel fishery using the proposed numbers from FP07-27B.

The current annual total harvest limits for the Kenai River dip net/rod and reel fishery exist in addition to the annual household limits that are in place for the same species, and create regulatory confusion and concern that all Federally qualified subsistence users will not be provided subsistence opportunity before annual total limits are achieved. For example, one of concerns expressed in opposition to the Kenai River community gillnet fishery is that the one authorized gillnet could potentially harvest the total Sockeye Salmon annual total limit (4,000) at the Moose Range Meadows area by residents of Ninilchik prior to the time of year that residents of Cooper Landing and Hope harvest Sockeye Salmon at their preferred location in the Russian River. Removal of this annual total harvest limit would alleviate this concern and would allow the fishery to continue to be managed by annual household limits. The Federal in-season manager would continue to open and close the fisheries by Federal special action, if necessary.

Annual total harvest limits were also developed from proposal FP07-27B for the Kasilof River dip net/rod and reel fishery, in addition to annual household limits, and may be worth consideration for removal as well.

Effects of the Proposal

There are eight separate components to Fisheries Proposal FP17-08. If adopted, the following effects may apply:

The effects on regulations that authorize the dip net/rod and reel fishery at the one specified site on the Russian River and the two specified sites on the Kenai River below Skilak Lake for the residents of Hope, Cooper Landing, and Ninilchik are the following:

- Regulations would no longer distinguish between the early and late runs of Chinook Salmon;
- Harvest of Chinook Salmon would be prohibited (and require immediate release of any unintentional captured fish) in the Federal public waters directly below Skilak Lake from RM 48 downstream to RM 45.5.
- Harvest of Chinook Salmon by approved methods would be allowed in the Moose Range Meadows area from approximately RM 29 downstream to RM 26.5 between July 16 and September 30.
- The annual total harvest limit of 1,000 Chinook Salmon would be removed, and the annual household limit of 10 Chinook Salmon would be reduced to 4.
- Regulations would specify that salmon taken in the Kasilof River experimental community gillnet by the residents of Ninilchik will be included in each household's annual limits for the Kenai and Russian river's dip net/rod and reel fishery.

The effects on regulations that authorize the separate rod and reel fishery in the Federally managed waters of the Kenai River and its tributaries for the residents of Hope, Cooper Landing, and Ninilchik are the following:

- Regulations would no longer distinguish between the early and late runs of Chinook Salmon;
- Harvest of Chinook Salmon would be allowed in the Moose Range Meadows area from approximately RM 29 downstream to RM 26.5 between July 16 and August 31, with daily harvest limits of 2 and in possession limits of 4, and only if those fish are less than 46 inches or 55 inches or longer;
- Harvest of Chinook Salmon would be prohibited (and require immediate release of any unintentional captured fish) in the Federal public waters directly below Skilak Lake from RM 50 downstream to RM 45.5.

The removal of all language distinguishing between the early and late runs of Chinook salmon from both sections of regulation would simplify Federal subsistence regulation language, and would be more similar to State fishing regulations where no distinction is made for separate runs of Chinook Salmon in the Kenai River. The harvest of Chinook Salmon would be dictated by dates rather than by limits on each specific run. Current regulatory conflicts between the season associated with the Kenai River community gillnet fishery (June 15 – August 15) and the season allowed for Chinook Salmon harvest (July 16 to September 30) would remain.

The prohibition of harvest and the requirement for immediate release of Chinook Salmon below Skilak Lake from both sections of regulation would protect an area of the river from fishing where a large proportion of these fish spawn. There is some difference in the closures in that the dip net/rod and reel fishery would close in the specified area from RM 48 downstream to RM 45.5, while the separate rod and reel fishery would close from RM 50 downstream to RM 45.5. These differences in area already exist in regulation as the dip net/rod and reel fishery is specific to this area, while the separate rod and reel fishery is limited to Federal public waters and also State sport fishing regulations, which close fishing to Chinook Salmon at RM 50. If adopted, the section of the river shown to support the highest number of Chinook Salmon spawners would be afforded additional protections. However, Federal regulations would become more restrictive in this section of the river than State regulations. Federally qualified subsistence users and non-Federally qualified users could still harvest Chinook Salmon in this section of the river under State regulations that currently allow for the harvest of Chinook Salmon; however, the State bag and possession limit of one Chinook Salmon and an annual limit of two in the Kenai River would be a decrease from the current Federal harvest limit of 10. There has been one reported harvest of Chinook Salmon in this section of the river by Federally qualified subsistence users under Federal regulations since the fishery opened in 2007. The proponent of this proposal has submitted a companion proposal to the State of Alaska Board of Fisheries (BOF) to close this section of the river to sport fishing for Chinook Salmon. If the proposal to the BOF is validated in August 2016, it will be taken up by the BOF during its February – March 2017 meeting in Anchorage, more than a month after the January 2017 meeting of the Federal Subsistence Board.

Restricting Chinook Salmon harvest under both regulatory sections to the Moose Range Meadows area in the lower Kenai River (RM 29 downstream to RM 26.5) would limit harvest for Chinook Salmon to this one location in the drainage. The dip net/rod and reel fishery does not allow for Chinook Salmon harvest in the Russian River, and the area just below Skilak Lake would be closed. The separate rod and reel fishery

allows fishing in all open Federal public waters in the Kenai River drainage, with the caveat that seasons, area (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motorboat restrictions) for take are the same as for the taking of salmon under State of Alaska sport fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.54). Within the Kenai River drainage, the State sport fishing regulations only allow fishing for Chinook Salmon from the mouth of the river upstream to (but not including) Skilak Lake, making this the one portion of the drainage that Federally qualified subsistence users could harvest Chinook Salmon. This would also have the effect of eliminating the area just downstream of Skilak Lake (RM 45.5 – 48) as an option for the Kenai River community gillnet fishery due to the likelihood of harvest of Chinook Salmon.

The dip net/rod and reel fishery for Chinook Salmon in the Moose Range Meadows area would be open from July 16 to September 30, which is the date range currently in regulation for harvest of late-run Chinook under this fishery. The separate rod and reel fishery for Chinook Salmon in the Moose Range Meadows area would be open from July 16 to August 31. This would reduce the season for the separate rod and reel fishery by approximately one month, as it currently opens on June 15. The end date of August 31 would remain the same as current regulation. Fishing effort on the earlier portion of the Chinook Salmon run would be limited in this section of the river, providing additional protections for this portion of the run. Time allowed for harvest of this species by Federally qualified subsistence users would also be reduced. Regulatory conflict between the season associated with the Kenai River community gillnet fishery (June 15 – August 15) and the season allowed for Chinook Salmon harvest (July 16 to September 30) would remain.

The separate rod and reel fishery for Chinook Salmon in the Moose Range Meadows area would require fish to be less than 46 inches or 55 inches or longer for retention. This is the slot limit currently in place for Chinook Salmon harvested in this fishery prior to July 16,which would no longer be an option due to the change in start of season for this fishery from June 15 to July 16, and would be new for fish harvested in this fishery July 16 and later. This would afford protections to 5-ocean fish that match what the State has in place, except that the State's slot limit is slightly greater at 42 inches to 55 inches, and the State's slot limit is in place in this section of the Kenai River only until July 14. This would make the Federal regulations for Chinook Salmon more restrictive than State regulations in this section of the river at this time of the year, decrease the length of the fishery for Chinook Salmon by one month, and would introduce regulatory complexity between Federal and State regulations.

The annual total harvest limit of 1,000 Chinook Salmon in the dip net/rod and reel fishery would be removed, and the annual household limit would be decreased from the current quantity of 10 to a new quantity of 4. The additional two fish per each additional household member would remain the same. There are currently 950 occupied households (161 Cooper Landing CDP, 97 Hope CDP, 10 Sunrise CDP, 412 Ninilchik CDP, 270 Happy Valley CDP) in the communities with Customary and Traditional use determinations for the Kenai River. Under the proposed limits, residents of Hope and Cooper Landing would have their annual household limits for the Kenai River dip net/rod and reel fishery decreased from 10 Chinook Salmon to 4 Chinook Salmon. Residents of Ninilchik would continue to be able to harvest up to 10 Chinook Salmon from the Kenai River dip net/rod and reel fishery as their annual household limit for this fishery is set by the Kasilof River dip net/rod and reel limits (**Table 6**). The removal of the 1,000

Chinook Salmon total harvest guideline for this fishery would affect all three communities the same (**Table 7**). Under the current Chinook Salmon limit of 1,000 total and 10 per household, the total annual limit would be reached prior to the individual household limit if there was active fishing for this species. By removing the 1000 Chinook Salmon total limit, more than 7,892 Chinook Salmon could be harvested (6,820 for Ninilchik households and 1,072 by Hope and Cooper Landing households) if all households participated. This could lead to a substantial increase in the harvest of this resource from this area. However, removal of this annual total limit would decrease some of the regulatory complexity associated with this fishery. The decrease in annual harvest limits by households from 10 to 4 would affect Hope and Cooper Landing households more than Ninilchik households, and likely some individual users more than others.

Table 6. Annual household limits for Kenai and Kasilof River fisheries by residents of Ninilchik

River	Fishery	Limit Location	Regulatory Section
Kasilof	Dip Net/Rod-and-Reel	Kasilof River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(A)(4)(i-v)
		Kenai River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(D)
Kasilof	Experimental Gillnet	Kasilof River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(I)(6)
		*Kenai River Dip Net/Rod-and-Reel***	*§___.27(e)(10)(iv)(D)***
Kasilof	Fish Wheel	Kasilof River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(H)(6)
		Kenai River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(D)
Kenai	Dip Net/Rod-and-Reel	Kasilof River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(A)(4)
		Kasilof River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(D)(3)
Kenai	Gillnet	Kenai River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(J)(5)

**Proposed addition by FP17-08

Table 7. Annual total limits for Kenai and Kasilof River fisheries by residents of Ninilchik

River	Fishery	Limit Location	Regulatory Section
Kasilof	Dip Net/Rod-and-Reel	Kasilof River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(A)(4)(i-v)
Kasilof	Experimental Gillnet	Kasilof River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(I)(5)
Kasilof	Fish Wheel	Kasilof River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(H)(6)
Kenai*	Dip Net/Rod-and-Reel*	Kenai River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(D)(3)(i-v)
Kenai*	Gillnet*	Kenai River Dip Net/Rod-and-Reel	§___.27(e)(10)(iv)(J)(5)

*Same locations for Hope and Cooper Landing

The separate rod and reel fishery for Chinook Salmon in the Moose Range Meadows area would allow for daily harvest and possession limits of 2 per day and 4 in possession. The daily limit would remain the same as currently allowed for this fishery, but the in-possession limit would increase from the current quantity of 2. This would allow Federally qualified users to have in possession their annual household limit of 4 specified for this fishery.

Lastly, the dip net/rod and reel fishery regulations would specify that salmon taken in the Kasilof River experimental community gillnet fishery by the residents of Ninilchik would be included in each household's annual limits for the Kenai and Russian River's dip net/rod and reel fishery. This would link

the experimental community gillnet annual household limit to both the Kenai River dip net/rod and reel limits as well as the Kasilof River dip net/rod and reel limits; which is already the case for the Kasilof River dip net/rod and reel fishery and the fish wheel fishery (**Table 6**). Regulatory issues may arise if all three of the Kasilof River fisheries are linked to both sets of regulations and the annual household limit for Chinook Salmon is decreased for the Kenai River dip net/rod and reel fishery as proposed (from 10 to 4). Law enforcement will have to determine whether to enforce the annual limit of 10 or 4 for the Kasilof River fisheries, and there will be the potential for subsistence users receiving citations when they did not actually break the law. These same regulatory issues will remain in effect for the Kasilof River dip net/rod and reel fishery and the Kasilof River fish wheel fishery if the decreased annual household limit for the Kenai is adopted, but the Kasilof River experimental gillnet harvest is not linked to the Kenai River dip net/rod and reel annual harvest limits.

OSM PRELIMINARY CONCLUSION

Given that this proposal would affect the Kenai River community gillnet fishery, the RFR process related to that fishery is ongoing, and the State of Alaska Board of Fisheries will be addressing requests for similar regulatory changes after the Board take up this proposal in January, OSM is offering two potential courses of action for consideration. Option 1 assumes that the RFR process is ongoing: either the Board has not reached a decision about the threshold analysis or has determined that one or more claims meet the threshold for further analysis. Option 2 assumes that the RFR process has been completed and the Kenai River community gillnet fishery regulations remain in place without modification.

Option 1:

Defer FP17-08.

Justification

Adoption of this proposal would make Federal regulations more restrictive than current State regulations with regards to the harvest of Chinook Salmon in the Federal public waters of the Kenai River between RM 45.5 and RM 50 below Skilak Lake. The proponent of this proposal has submitted two companion proposals to the BOF to close 4.5 miles of the Kenai River below Skilak Lake to sport fishing for Chinook Salmon (Proposal 155) and to extend the time of the protective slot limit and single hook/no bait restrictions through July 31 upstream of the Slikok Creek closure area (Proposal 159). The proposals will be taken up by the BOF during its February – March 2017 meeting in Anchorage, more than a month after than the January 2017 meeting of the Federal Subsistence Board.

In addition, with simultaneous RFR and legal efforts occurring at this time for issues related to the community gillnet fishery on the Kenai River, it is recommended by OSM that any decisions on FP17-08 be deferred so as not to preclude any decisions on FP15-10 that have yet to be made by the Board through the RFR process or contradict any potential direction that may be received from the U.S. District Court as a result of the pending litigation.

Option 2:

Support FP17-08 **with modification** to only remove language from both regulatory sections that distinguish the early and late runs of Chinook Salmon. OSM's preliminary assessment of each requested regulatory change is provided for following the modified regulatory language.

The modification should read:

Cook Inlet Area

§___.27(e)(10) (iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, ~~late-run~~ Chinook, coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake, and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. 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), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. 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. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species..

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC

57 and 5 AAC 77.540).

ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).

(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(2) Fishing seasons are as follows:

(i) For sockeye salmon at all fishery sites: June 15-August 15;

(ii) For ~~late-run~~ Chinook, pink, and coho salmon at both Kenai River fishery sites only: July 16-September 30; ~~and~~

(iii) Fishing for sockeye, ~~late-run~~ Chinook, coho, or pink salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action

(3) Each household may harvest their annual Sockeye, ~~late-run~~ Chinook, Coho, or Pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.

(i) For Sockeye Salmon—annual total harvest limit of 4,000 (including any retained Chum Salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;

(ii) For ~~late-run~~ Chinook Salmon—annual total harvest limit of 1,000; annual household limits of 10 for each permit holder and 2 additional for each household member;

(iii) For Coho Salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each

household member; and

(iv) For Pink Salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.

(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (e)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager by the due date listed on the permit. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (e)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) 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 77.54), except for the following harvest and possession limits:

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

(2) For early-run Chinook salmon less than 46 inches or 55 inches or longer, daily harvest and possession limits are two per day and two in possession.

(3) For ~~late-run~~ Chinook salmon 20 inches and longer, daily harvest and possession limits are two per day and two in possession.

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

(5) For other salmon 16 inches and longer, the combined daily harvest and possession limits are six per day and six in possession, of which no more than four per day and four in possession may be coho salmon, except for the Sanctuary Area and Russian River, for which no more than two per day and two in possession may be coho salmon.

Assessment of Requested Regulatory Changes

Request 1

The proponent requests the Board remove all language distinguishing the early and late runs of Chinook Salmon from the Russian and Kenai rivers dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)).

Points to Consider:

1. The removal of the distinction between these runs would simplify Federal subsistence regulations.

2. The harvest of Chinook Salmon would be dictated by dates rather than by limits on each specific run, similar to what the State currently does.

3. Regulatory conflicts with the community gillnet fishery would remain. Current regulations prohibit the take of Chinook Salmon before July 16, while the community gillnet fishery begins June 15.

*OSM's preliminary conclusion is to **Support** this request. Removal of the early-run and late-run language clarifies regulations, and this change would have no distinct impact on users or the resource.*

Request 2

The proponent requests the Board prohibit harvest and require immediate release of Chinook Salmon below Skilak Lake from RM 48 downstream to RM 45.5 in the Russian and Kenai rivers dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)).

Points to Consider:

1. If implemented, a large portion of Chinook Salmon spawning habitat in the drainage would be protected.

2. This change would make Federal subsistence regulations more restrictive than current State regulations in this area of the river.

3. Fishing could continue under State sport fishing regulations in this section of the river, but harvest opportunity would be limited to one per day and two total, rather than the current Federal subsistence harvest limit of 10 for the Kenai River under this fishery.

4. This area of the river would be eliminated as an option for the Kenai River community gillnet.

*OSM's preliminary conclusion is to **Oppose** this request. Closing this section of the river to subsistence harvest of Chinook Salmon would impose stricter regulations on Federally qualified subsistence users within Federal public waters than are currently in place for non-subsistence users in those same waters.*

Request 3

The proponent requests the Board specify that Chinook Salmon may be harvested in the Moose Range Meadows area from approximately RM 29 downstream to RM 26.5 between July 16 and September 30 in the Russian and Kenai rivers dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)).

Points to Consider:

1. The dates suggested for this new Chinook Salmon regulation would remain the same as are currently allowed under the dip net/rod and reel fishery.

2. If implemented as written, this would have the same effect as Issue 2 in that it would allow fishing for Chinook Salmon under the dip net/rod and reel fishery only at the Moose Range Meadows site; thereby closing the area directly downstream of Skilak Lake to the take of Chinook Salmon by dip net, rod and reel, and community gillnet fisheries.

3. This change would make Federal subsistence regulations more restrictive than current State regulations for the area directly below Skilak Lake (RM 48 to RM 45.5).

OSM's preliminary conclusion is to ***Oppose*** *this request. This would limit harvest opportunity for Chinook Salmon by Federally qualified subsistence users to 2.5 miles of the Kenai River drainage, and would impose stricter regulations on Federally qualified subsistence users within Federal public waters than are currently in place for non-subsistence users.*

Request 4

The proponent requests the Board remove the 1,000 fish annual total harvest limit for Chinook Salmon, and decrease the annual household limit from 10 to 4 in the Kenai River dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)).

Points to Consider:

1. There are currently 950 occupied households in communities with customary and traditional use determinations for the Kenai River.

2. Decreasing the annual household limit from 10 to 4 would decrease harvest opportunity in the Kenai River dip net/rod and reel fishery only for those households that wanted Chinook Salmon in Hope and Cooper Landing. Annual household limits for this fishery by the residents of Ninilchik are linked to the Kasilof River annual household limits, and harvest opportunity would remain at 10 Chinook Salmon.

3. A household annual limit of four would also match the limit of four Chinook Salmon currently allowed in the separate Kenai River rod and reel fishery.

4. Removing the 1,000 Chinook Salmon annual total harvest limit (and implementing the 4 fish

household limit) could have the effect of increasing the harvest of this species to 7,892 or more based on households in communities with customary and traditional determinations.

*OSM's preliminary conclusion is to **Oppose** this request. Annual household limit regulations for the Kenai and Kasilof River fisheries are overly complex and contradictory (see **Table 6**). Removing the annual total harvest limit may actually increase harvest of Chinook Salmon, and lowering the annual household limit for the Kenai River dip net/rod and reel fishery will create lower annual household limits for Hope and Cooper Landing residents compared to Ninilchik Residents.*

Request 5

The proponent requests the Board specify in the Russian and Kenai rivers dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)) that salmon taken in the Kasilof River experimental community gillnet fishery by the residents of Ninilchik be included in each household's annual household limit for the Kenai River dip net/rod and reel fishery.

Points to Consider:

1. The proponent's goal for this change is to provide regulatory clarity.

2. This change would make salmon harvest from the Kasilof River experimental community gillnet count towards annual household limits for the Kenai River dip net/rod and reel fishery.

3. Salmon harvest in the Kasilof River experimental community gillnet fishery regulations ((§___.27(i)(10)(iv)(I))currently count towards the annual household limits for the Kasilof River dip net/rod and reel fishery, and would now be linked to both household limits.

4. Annual household limits for the Kasilof River dip net/rod and reel fishery and the Kasilof River fish wheel fishery are also linked to both the annual limits for the Kenai River dip net/rod and reel fishery and the Kasilof River dip net/rod and reel fishery.

5. This would create additional regulatory conflicts in Federal subsistence regulations. Law enforcement will have to determine whether to enforce annual limits of 10 or 4 for Chinook Salmon for the Kasilof River fisheries if Chinook Salmon household limits for the Kenai River dip net/rod and reel fishery are decreased, and there will be the potential for subsistence users receiving citations when they did not actually break the law.

6. Even if the Kasilof River experimental gillnet harvest is not linked to the Kenai River dip net/rod and reel annual harvest limits, these same regulatory issues will remain in effect for the Kasilof River dip net/rod and reel and fish wheel fisheries if the annual household limit decrease (from 10 to 4) is adopted for the Kenai.

*OSM's preliminary conclusion is to **Oppose** this request. This change would create more regulatory complexity. The Board should consider creating a single annual household limit in regulation for residents of all three communities with customary and traditional determinations, and striking the limits*

that are currently listed in §___.27(i)(10)(iv)(A)(4)(i-v), §___.27(i)(10)(iv)(D), §___.27(i)(10)(iv)(D)(3), §___.27(i)(10)(iv)(H)(6), §___.27(i)(10)(iv)(I)(6), and §___.27(i)(10)(iv)(J)(5).

Request 6

The proponent requests the Board remove all language distinguishing the early and late runs of Chinook Salmon from the Kenai River separate rod and reel fishery regulation (§___.27(i)(10)(iv)(E)).

Points to Consider:

1. The removal of the distinction between these runs would simplify Federal subsistence regulations.

2. The harvest of Chinook Salmon would be dictated by dates rather than by limits on each specific run, similar to what the State currently does.

OSM's preliminary conclusion is to ***Support*** *this request. Removal of the early-run and late-run language clarifies regulations, and this change would have no distinct impact on users or the resource.*

Request 7

The proponent requests the Board specify that Chinook Salmon harvest under the Kenai River separate rod and reel fishery regulation (§___.27(i)(10)(iv)(E)) be restricted to the Moose Range Meadows area from approximately RM 29 downstream to RM 26.5, between July 16 and August 31, with daily harvest and possession limits of two per day and four in possession, and only if fish are less than 46 inches or 55 inches or longer.

Points to Consider:

1. The proponent's stated goal for this change is to provide additional protections for early-run Chinook Salmon during their residence in freshwater and on their spawning grounds.

2. If adopted, this would reduce the season for harvest of Chinook Salmon in this fishery by approximately one month as it currently opens June 15.

3. This would match the start dates for Chinook Salmon harvest with the dip net/rod and reel fishery (July 16), but the end dates would remain different (August 31 and September 30).

4. The slot limit (less than 46 inches or 55 inches and greater) is currently in place for Chinook Salmon harvested prior to July 16, but would be new for the time period from July 16 to August 31.

5. State regulations also have a slot limit (less than 42 inches or 55 inches and greater), but it extends only to July 14. This would make Federal regulations more restrictive than State regulations.

6. The daily harvest limit would remain the same for Chinook Salmon in this fishery, but the possession limit would increase by two to a total of four. This would match the annual household

limit for this fishery.

*OSM's preliminary conclusion is to **Oppose** this request. These changes would impose stricter regulations on Federally qualified subsistence users within Federal public waters than are currently in place for non-subsistence users in those same waters.*

Request 8

The proponent requests the Board prohibit harvest and require immediate release of Chinook Salmon below Skilak Lake from RM 50 downstream to RM 45.5 in the Kenai River separate rod and reel fishery regulation (§___.27(i)(10)(iv)(E)).

Points to Consider:

1. If implemented, a large portion of Chinook Salmon spawning habitat in the drainage would be protected.

2. This change would make Federal subsistence regulations more restrictive than current State regulations in this area of the river.

3. Retention of Chinook Salmon could continue for both Federally qualified subsistence users and non-Federally qualified users under State sport fishing regulations in this section of the river. However, Chinook Salmon harvest opportunity for Federally qualified subsistence users would be reduced to one per day and two total under State regulations, rather than the current Federal subsistence harvest limit of 10 for the Kenai River under this fishery.

4. This area of the river would be eliminated as an option for the Kenai River community gillnet.

*OSM's preliminary conclusion is to **Oppose** this request. Closing this section of the river to subsistence harvest of Chinook Salmon would impose stricter regulations on Federally qualified subsistence users within Federal public waters than are currently in place for non-subsistence users in those same waters.*

ANALYSIS ADDENDUM

ISSUE

Following the Southcentral Alaska Subsistence Regional Advisory Council Meeting on October 17 and 18, 2016, OSM staff reviewed the genesis of the annual total harvest limits in place for the Kenai River dip net/rod and reel regulations (§100.27(e)(10)(iv)(D)). The annual total harvest limits for this fishery were developed from a 2007 NTC proposal (FP07-27B) that was submitted with the intent to have a single set gillnet in the Kasilof River and a single set gillnet in the Kenai River. The proposed totals (1,000 Chinook Salmon, 4,000 Sockeye Salmon, and 2,000 Pink Salmon) were to be a set quantity that would be allowed for harvest in that fishery, which was proposed to span both river systems. These proposed totals were not based on a biological analysis.

A special regulatory session was provided in May 2007 for Kenai area related fisheries proposals. Due to the complexity of existing Kenai Peninsula fishery regulations, the OSM personnel attempted to ensure that recommendations for the subsistence taking of fish were compatible with existing sustained yield goals in State regulations, as well as other established uses (OSM 2007).

Rather than engaging in the typical proposal-by-proposal analysis, OSM offered strategies intended to apply to all Kenai Peninsula proposals and to address recognized principles of fisheries conservation while providing for a subsistence priority. This included limiting the analyses to the Kasilof and Kenai River drainages, analyzing proposals by drainage, grouping proposals within drainages to address different management needs of different types of fish, providing for subsistence gear types that allowed for species, stock, and size selective management to address conservation, development of fisheries that provided a subsistence priority for all eligible rural residents, and providing for accurate and timely reporting of subsistence harvests and identification of subsistence-caught fish. Using these strategies, and an extended review process that allowed NTC to contribute to the revised analyses, the requested set gillnet fishery on the Kasilof and Kenai Rivers were altered to become dip net/rod and reel fisheries for both of these locations. The proposed harvest totals that were to cover the set gillnet fishery for both river systems, with some minor modification, were instead presented to the Board as an annual total harvest limit for the Kenai River.

OSM CONCLUSION

Option 1:

Defer FP17-08.

Justification

Adoption of this proposal would make Federal regulations more restrictive than current State regulations with regards to the harvest of Chinook Salmon in the Federal public waters of the Kenai River between RM 45.5 and RM 50 below Skilak Lake. The proponent of this proposal has submitted two companion proposals to the BOF to close 4.5 miles of the Kenai River below Skilak Lake to sport fishing for Chinook Salmon (Proposal 155) and to extend the time of the protective slot limit and single hook/no bait restrictions through July 31 upstream of the Slikok Creek closure area (Proposal 159). The proposals will be taken up by the BOF during its February – March 2017 meeting in Anchorage, more than a month after than the January 2017 meeting of the Federal Subsistence Board.

In addition, with simultaneous RFR and legal efforts occurring at this time for issues related to the community gillnet fishery on the Kenai River, it is recommended by OSM that any decisions on FP17-08 be deferred so as not to preclude any decisions on FP15-10 that have yet to be made by the Board through the RFR process or contradict any potential direction that may be received from the U.S. District Court as a result of the pending litigation.

Option 2:

Support FP17-08 **with modification** to only remove language distinguishing between early and late run Chinook Salmon and remove the 1,000 Chinook Salmon annual total harvest limit. OSM's assessment of each requested regulatory change is provided following the modified regulatory language.

The modification should read:

Cook Inlet Area

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, ~~late-run~~ Chinook, coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake, and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. 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), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. 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. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as

those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).

ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).

(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(2) Fishing seasons are as follows:

(i) For sockeye salmon at all fishery sites: June 15-August 15;

(ii) For ~~late-run~~ Chinook, pink, and coho salmon at both Kenai River fishery sites only: July 16-September 30; ~~and~~

(iii) Fishing for sockeye, ~~late-run~~ Chinook, coho, or pink salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action

(3) Each household may harvest their annual Sockeye, ~~late-run~~ Chinook, Coho, or Pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.

(i) For Sockeye Salmon—annual total harvest limit of 4,000 (including any retained Chum Salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;

(ii) For ~~late-run~~ Chinook Salmon—~~annual total harvest limit of 1,000;~~ annual household limits of 10 for each permit holder and 2 additional for each household member;

(iii) For Coho Salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household

member; and

(iv) For Pink Salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.

Assessment of Requested Regulatory Changes

Request 1

The proponent requests the Board remove all language distinguishing the early and late runs of Chinook Salmon from the Russian and Kenai rivers dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)).

Points to Consider:

1. The removal of the distinction between these runs would simplify Federal subsistence regulations.

2. The harvest of Chinook Salmon would be dictated by dates rather than by limits on each specific run, similar to what the State currently does.

3. Regulatory conflicts with the community gillnet fishery would remain. Current regulations prohibit the take of Chinook Salmon before July 16, while the community gillnet fishery begins June 15.

*OSM's conclusion is to **Support** this request. Removal of the early-run and late-run language clarifies regulations, and this change would have no distinct impact on users or the resource.*

Request 2

The proponent requests the Board prohibit harvest and require immediate release of Chinook Salmon below Skilak Lake from RM 48 downstream to RM 45.5 in the Russian and Kenai rivers dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)).

Points to Consider:

1. If implemented, a large portion of Chinook Salmon spawning habitat in the drainage would be protected.

2. This change would make Federal subsistence regulations more restrictive than current State regulations in this area of the river.

3. Fishing could continue under State sport fishing regulations in this section of the river, but harvest opportunity would be limited to one per day and two total, rather than the current Federal subsistence harvest limit of 10 for the Kenai River under this fishery.

4. This area of the river would be eliminated as an option for the Kenai River community gillnet.

*OSM's conclusion is to **Oppose** this request. Closing this section of the river to subsistence harvest of Chinook Salmon would impose stricter regulations on Federally qualified subsistence users within Federal public waters than are currently in place for non-subsistence users in those same waters.*

Request 3

The proponent requests the Board specify that Chinook Salmon may be harvested in the Moose Range Meadows area from approximately RM 29 downstream to RM 26.5 between July 16 and September 30 in the Russian and Kenai rivers dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)).

Points to Consider:

1. The dates suggested for this new Chinook Salmon regulation would remain the same as are currently allowed under the dip net/rod and reel fishery.

2. If implemented as written, this would have the same effect as Issue 2 in that it would allow fishing for Chinook Salmon under the dip net/rod and reel fishery only at the Moose Range Meadows site; thereby closing the area directly downstream of Skilak Lake to the take of Chinook Salmon by dip net, rod and reel, and community gillnet fisheries.

3. This change would make Federal subsistence regulations more restrictive than current State regulations for the area directly below Skilak Lake (RM 48 to RM 45.5).

*OSM's conclusion is to **Oppose** this request. This would limit harvest opportunity for Chinook Salmon by Federally qualified subsistence users to 2.5 miles of the Kenai River drainage, and would impose stricter regulations on Federally qualified subsistence users within Federal public waters than are currently in place for non-subsistence users.*

Request 4

The proponent requests the Board remove the 1,000 fish annual total harvest limit for Chinook Salmon, and decrease the annual household limit from 10 to 4 in the Kenai River dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)).

Points to Consider:

1. There are currently 950 occupied households in communities with customary and traditional use determinations for the Kenai River.

2. Decreasing the annual household limit from 10 to 4 would decrease harvest opportunity in the Kenai River dip net/rod and reel fishery only for those households that wanted Chinook Salmon in Hope and Cooper Landing. Annual household limits for this fishery by the residents of Ninilchik are linked to the Kasilof River annual household limits, and harvest opportunity would remain at 10 Chinook Salmon.

3. A household annual limit of four would also match the limit of four Chinook Salmon currently allowed in the separate Kenai River rod and reel fishery.

4. There has been no biological basis provided to date for the 1,000 Chinook Salmon annual total harvest limit.

5. This would decrease the regulatory complexity for this fishery and not place any additional burdens on Federally qualified subsistence users.

*OSM's conclusion is to **Support** this request **with modification** to only remove the 1,000 Chinook Salmon annual total harvest limit. Annual household limit regulations for the Kenai and Kasilof River fisheries are overly complex and contradictory (see **Table 6**). Removing the annual total harvest limit would decrease regulatory complexity, manage Kenai River Chinook Salmon harvest for residents of Cooper Landing, Hope, and Ninilchik solely on household limits, and place no additional burdens on Federally qualified subsistence users. Federal special actions would remain a tool for fishery restrictions or closures during times of conservation concern.*

Request 5

The proponent requests the Board specify in the Russian and Kenai rivers dip net/rod and reel fishery regulations (§___.27(i)(10)(iv)(D)) that salmon taken in the Kasilof River experimental community gillnet fishery by the residents of Ninilchik be included in each household's annual household limit for the Kenai River dip net/rod and reel fishery.

Points to Consider:

1. The proponent's goal for this change is to provide regulatory clarity.

2. This change would make salmon harvest from the Kasilof River experimental community gillnet count towards annual household limits for the Kenai River dip net/rod and reel fishery.

3. Salmon harvest in the Kasilof River experimental community gillnet fishery regulations ((§___.27(i)(10)(iv)(I))currently count towards the annual household limits for the Kasilof River dip net/rod and reel fishery, and would now be linked to both household limits.

4. Annual household limits for the Kasilof River dip net/rod and reel fishery and the Kasilof River fish wheel fishery are also linked to both the annual limits for the Kenai River dip net/rod and reel fishery and the Kasilof River dip net/rod and reel fishery.

5. This would create additional regulatory conflicts in Federal subsistence regulations. Law enforcement will have to determine whether to enforce annual limits of 10 or 4 for Chinook Salmon for the Kasilof River fisheries if Chinook Salmon household limits for the Kenai River dip net/rod and reel fishery are decreased, and there will be the potential for subsistence users receiving citations when they did not actually break the law.

6. Even if the Kasilof River experimental gillnet harvest is not linked to the Kenai River dip net/rod and reel annual harvest limits, these same regulatory issues will remain in effect for the Kasilof River dip net/rod and reel and fish wheel fisheries if the annual household limit decrease (from 10 to 4) is adopted for the Kenai.

*OSM's conclusion is to **Oppose** this request. This change would create more regulatory complexity. The Board should consider creating a single annual household limit in regulation for residents of all three communities with customary and traditional determinations, and striking the limits that are currently listed in §___.27(i)(10)(iv)(A)(4)(i-v), §___.27(i)(10)(iv)(D), §___.27(i)(10)(iv)(D)(3), §___.27(i)(10)(iv)(H)(6), §___.27(i)(10)(iv)(I)(6), and §___.27(i)(10)(iv)(J)(5).*

Request 6

The proponent requests the Board remove all language distinguishing the early and late runs of Chinook Salmon from the Kenai River separate rod and reel fishery regulation (§___.27(i)(10)(iv)(E)).

Points to Consider:

1. The removal of the distinction between these runs would simplify Federal subsistence regulations.

2. The harvest of Chinook Salmon would be dictated by dates rather than by limits on each specific run, similar to what the State currently does.

*OSM's conclusion is to **Support** this request. Removal of the early-run and late-run language clarifies regulations, and this change would have no distinct impact on users or the resource.*

Request 7

The proponent requests the Board specify that Chinook Salmon harvest under the Kenai River separate rod and reel fishery regulation (§___.27(i)(10)(iv)(E)) be restricted to the Moose Range Meadows area from approximately RM 29 downstream to RM 26.5, between July 16 and August 31, with daily harvest and possession limits of two per day and four in possession, and only if fish are less than 46 inches or 55 inches or longer.

Points to Consider:

1. The proponent's stated goal for this change is to provide additional protections for early-run Chinook Salmon during their residence in freshwater and on their spawning grounds.

2. If adopted, this would reduce the season for harvest of Chinook Salmon in this fishery by approximately one month as it currently opens June 15.

3. This would match the start dates for Chinook Salmon harvest with the dip net/rod and reel fishery (July 16), but the end dates would remain different (August 31 and September 30).

4. The slot limit (less than 46 inches or 55 inches and greater) is currently in place for Chinook Salmon harvested prior to July 16, but would be new for the time period from July 16 to August 31.

5. State regulations also have a slot limit (less than 42 inches or 55 inches and greater), but it extends only to July 14. This would make Federal regulations more restrictive than State regulations.

6. The daily harvest limit would remain the same for Chinook Salmon in this fishery, but the possession limit would increase by two to a total of four. This would match the annual household limit for this fishery.

*OSM's conclusion is to **Oppose** this request. These changes would impose stricter regulations on Federally qualified subsistence users within Federal public waters than are currently in place for non-subsistence users in those same waters.*

Request 8

The proponent requests the Board prohibit harvest and require immediate release of Chinook Salmon below Skilak Lake from RM 50 downstream to RM 45.5 in the Kenai River separate rod and reel fishery regulation (§___.27(i)(10)(iv)(E)).

Points to Consider:

1. If implemented, a large portion of Chinook Salmon spawning habitat in the drainage would be protected.

2. This change would make Federal subsistence regulations more restrictive than current State regulations in this area of the river.

3. Retention of Chinook Salmon could continue for both Federally qualified subsistence users and non-Federally qualified users under State sport fishing regulations in this section of the river. However, Chinook Salmon harvest opportunity for Federally qualified subsistence users would be reduced to one per day and two total under State regulations, rather than the current Federal subsistence harvest limit of 10 for the Kenai River under this fishery.

4. This area of the river would be eliminated as an option for the Kenai River community gillnet.

*OSM's conclusion is to **Oppose** this request. Closing this section of the river to subsistence harvest of Chinook Salmon would impose stricter regulations on Federally qualified subsistence users within Federal public waters than are currently in place for non-subsistence users in those same waters.*

LITERATURE CITED

ADF&G. 2016a. Alaska Fisheries Sonar. Escapement Goals. http://www.adfg.alaska.gov/index.cfm?adfg=sonar.escapementgoals. Retrieved July 2016.

ADF&G. 2016b. Kenai Early Run Chinook Estimates, Indices and Inseason Run Summaries. http://www.adfg.alaska.gov/sf/FishCounts/index.cfm?ADFG=main.kenaiChinook&RunSummaryID=158#/inseasonSummary. Retrieved July 2016.

ADF&G. 2016c. Kenai (RM 8.6) River. http://www.adfg.alaska.gov/index.cfm?adfg=sonar.site_fish&site=2. Retrieved July 2016.

ADF&G Chinook Salmon Research Team. 2013. Chinook Salmon stock assessment and research plan, 2013. Alaska Department of Fish and Game, Special Publication No. 13-01, Anchorage, Alaska.

Alexandersdottir, M., and L. Marsh. 1990. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1989. Alaska Department of Fish and Game, Fishery Data Series Number 90-55, Anchorage, Alaska.

Begich, R. N., Pawluk, J.A., Cope, J. L., and Simons, S. 2013. 2010-2012 Annual Management Report and 2013 recreational fisheries overview for Northern Kenai Peninsula: fisheries under consideration by the Alaska Board of Fisheries, 2014. Alaska Department of Fish and Game, Fishery Management Report No. 13-51, Anchorage, Alaska.

Bendock, T. and M. Alexandersdottir. 1990. Hook and Release Mortality of Chinook Salmon in the Kenai River Recreational Fishery. Alaska Department of Fish and Game, Fishery Data Series No. 90-16, Anchorage, Alaska.

Bendock, T. and M. Alexandersdottir. 1992. Mortality and movement behavior of hooked-and-released Chinook salmon in the Kenai River recreational fishery, 1989–1991. Alaska Department of Fish and Game, Fishery Data Series No. 92-2, Anchorage, Alaska.

Boersma, J. K., and K. S. Gates. 2016. Abundance and run timing of adult Chinook Salmon in the Funny River, Kenai Peninsula, Alaska, 2015. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Conservation Office, Alaska Fisheries Data Series Number 2016-3, Soldotna, Alaska

Burger, C.V., D.B. Wangaard, R.L. Wilmot, and A.N. Palmisano. 1983. Salmon investigations in the Kenai River, Alaska, 1979 – 1981. Alaska Field Station, National Fishery Research Center, Fish and Wildlife Service, U.S. Department of the Interior, Anchorage, Alaska.

Carlon, J. A., and M. Alexandersdottir. 1989. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1988. Alaska Department of Fish and Game, Fishery Data Series Number 107, Juneau, Alaska.

Cassidy, C. and G. Titus. 2003. Alaska's No. 1 Guide: The History and Journals of Andrew Berg 1869-1939. Spruce Tree Publishing. Soldotna, Alaska.

Conrad, R. H., and L. L. Larson. 1987. Abundance estimates for Chinook Salmon (*Oncorhynchus tshawytscha*) into the Kenai River, Alaska, by analysis of tagging data, 1986. Alaska Department of Fish and Game, Fishery Data Series Number 34, Juneau, Alaska.

Conrad, R. H. 1988. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1987. Alaska Department of Fish and Game, Fishery Data Series Number 67, Juneau, Alaska

DeCicco, A. L. 1994. Mortality of Anadromous Dolly Varden Captured and Released on Sport Fishing Gear. Alaska Department of Fish and Game, Fishery Data Series No. 94-47, Anchorage, Alaska.

de Laguna, F. 1934. The archaeology of Cook Inlet, Alaska. Philadelphia: University of Pennsylvania Press. 264 pages.

Eskelin, A., and D. Evans. 2013. Stock assessment of rainbow trout in the upper Kenai River, Alaska, 2009. Alaska Department of Fish and Game, Fisheries Data Series No. 13-22, Anchorage, Alaska.

Fall, J. A., R. T. Stanek, B. Davis, L. Williams, and R. Walker. 2004. Cook Inlet customary and traditional subsistence fisheries assessment. U.S. fish and Wildlife Service, Office of Subsistence Management, Fisheries Resource Monitoring Program, Final Report (Study No. 03-045). Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 285. Juneau, Alaska. 245 pages.

FSB. 2007a. Transcripts of the Federal Subsistence Board proceedings. May 8 – 10, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2007b. Transcripts of the Federal Subsistence Board proceedings. December 11 – 13, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2009. Transcripts of the Federal Subsistence Board proceedings. January 13 – 15, 2009. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2013. Transcripts of the Federal Subsistence Board proceedings. January 22 – 24, 2013. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2015. Transcripts of the Federal Subsistence Board proceedings. January 21 – 23, 2015. Office of Subsistence Management, USFWS. Anchorage, Alaska.

Georgette, S. 1983. Ninilchik: Resource uses in a small, road-connected community of the Kenai Peninsula Borough In Resource use and socioeconomic systems: case studies of fishing and hunting in Alaskan communities. R. Wolfe and L. Ellanna, compilers. ADF&G, Division of Subsistence. Technical report number 61. Juneau, Alaska. Pages 170–187.

Hammarstrom, S. L., and L. L. Larson. 1986. Cook Inlet Chinook and Coho Salmon studies. Alaska Department of Fish and Game, Federal Aid in Fish Restoration and Anadromous Fish Studies, Annual Performance Report, 1985-1986, Project F-10-1, 27(S-32):40-88, Juneau, Alaska.

King, B. E. and J. A. Breakfield. 2002. Coded wire tagging studies in the Kenai River and Deep Creek, Alaska, 1998. Alaska Department of Fish and Game, Fishery Data Series No. 02-03, Anchorage, Alaska.

Krauss, M. E. 1982. Native peoples and languages of Alaska. Map. Alaska Native Language Center, University of Alaska Fairbanks. Fairbanks, Alaska.

Lewis, B., W. S. Grant, R. E. Brenner, and T. Hamazaki. 2015. Changes in size and age of Chinook Salmon Oncorhynchus tshawytscha returning to Alaska. PLoS ONE 10(6):1-17.

Lindsay, R. B., R. K. Schroeder, and K. R. Kenaston. 2004. Hooking Mortality by Anatomical Location and Its Use in Estimating Mortality of Spring Chinook Salmon Caught and Released in a River Sport Fishery. North American Journal of Fisheries Management 24: 367-378.

Loshbaugh, D. 1993. Natives Get Fishery to Preserve Culture. Homer News. Vol. 20. No.28: 1,14.

Miller, J. D., D. L. Burwen, and S. J. Fleischman. 2011. Estimates of Chinook Salmon passage in the Kenai River using split-beam sonar, 2007. Alaska Department of Fish and Game, Fishery Data Series Number 11-52, Anchorage, Alaska.

Nelson, D., D. Athons, P. Berkhahn, and S. Sonnichsen. 1999. Area management report for the recreational fisheries of the Kenai Peninsula, 1995–1997. Alaska Department of Fish and Game, Division of Sport Fish, Fishery Management Report No. 99-3. Anchorage, Alaska. 244 pages.

OSM. 2007. Staff analyses of Kasilof River Drainage and Kenai Drainage Harvest Regulations, Overview and Summary. Pages 37 – 171 *in* Federal Subsistence Board Meeting Materials. May 8 – 10, 2007. Office of Subsistence Management, USFWS. Anchorage, AK. 289 pp.

Reimer, A. M. 2013. Migratory timing and distribution of Kenai River Chinook Salmon, 2010-2013, a report to the Alaska Board of Fisheries, 2014. Alaska Department of Fish and Game, Division of Sport Fish, Regional Information Report 2A12-06, Anchorage, Alaska.

Schill, D. L, and R. L. Scarpella. 1997. Barbed Hook Restrictions in Catch-and-Release Trout Fisheries: A Social Issue. North American Journal of Fisheries Management 17: 873-881.

Stanek, R. 1980. Subsistence Fishery Permit Survey. Cook Inlet 1980. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 30. Juneau, Alaska. 21 pages.

Taylor, M. J., and K. R. White. 1992. A Meta-Analysis of Hooking Mortality of Nonanadromous Trout. North American Journal of Fisheries Management 12: 760-767.

USFWS. 2007. Federal subsistence harvest by community summary for the Cook Inlet Area subsistence Fisheries, 2007. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2008. Cook Inlet area Federal subsistence fisheries 2008 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2009. Cook Inlet area Federal subsistence fisheries 2009 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2010. Cook Inlet area Federal subsistence fisheries 2010 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2011. Cook Inlet area Federal subsistence fisheries 2011 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2012. Cook Inlet area Federal subsistence fisheries 2012 summary. Unpublished report Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2013. Cook Inlet area Federal subsistence fisheries final 2013 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2014. Cook Inlet area Federal subsistence fisheries 2012 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

USFWS. 2015. Cook Inlet area Federal subsistence fisheries final 2013 summary. Unpublished report. Kenai Fish and Wildlife Field Office. Soldotna, Alaska. 1 pp.

WDFW. 2014. Grays Harbor and Willapa Bay Commercial Salmon Fisheries' Mortality Rates. http://wdfw.wa.gov/fishing/commercial/salmon/2014/ifsp_mortality_rates_final_report_033114.pdf. Retrieved July 2016.

Williams, L., C. Venechuk, D. Holen and W. Simeone. 2005. Lake Minchumina, Telida, Nikolai, and Cantwell Subsistence Community Use Profiles and Traditional Fisheries Use. Alaska Department of Fish and Game, Division of Subsistence. Technical Paper No. 265, Juneau, Alaska.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Oppose FP17-08. As these requested changes are also being proposed to the State Board of Fisheries, the Council would like to see if they are adopted there first so as to not restrict subsistence fisheries prior to restricting other fisheries. The Council members did not all see merit in the issues that are the basis for these requested changes as the Federal subsistence harvests and conservation concerns are both minimal at this time. Further, the Council reiterated that regulations associated with the allowable harvest numbers for this fishery need to be reviewed.

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

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-08: This proposal was submitted by the U.S. Fish and Wildlife Service (USFWS) and requests changes to two sections of regulations that would close a portion of the Federal public waters of the Kenai River to Chinook salmon fishing, extend conservation size regulations in another area of the drainage, remove distinctions between early- and late-run Chinook salmon, modify seasonal and daily harvest and possession limits, and specify that harvest from the Kasilof River experimental community gillnet will be included in each household's limits for the Federal Kenai River dip net/rod and reel fishery.

Introduction: This proposal has eight separate components, some of which were also submitted to the Alaska Board of Fisheries for consideration at the Upper Cook Inlet Finfish meeting during February 23 to March 8, 2017. These are proposals 155 to close 4.5 miles of the Kenai River below Skilak Lake to sport fishing for Chinook salmon and proposal 159 to extend the time of the protective slot limit and single hook/no bait restrictions through July 31 upstream of the Slikok Creek closure area. The proponent states that these changes will afford needed protections for Kenai River Chinook salmon that will help achieve the intent of the State of Alaska Kenai River and Kasilof River Early run King Salmon Conservation Man-

agement Plan by extending protective slot limits and harvest restrictions for Chinook salmon throughout their residency in freshwater and affording protections while on the spawning grounds.

Impact on Subsistence Users: Possible closures would limit subsistence users and there could be regulatory complexity. Some of the requests could simplify Federal regulations.

Impact on Other Users: Based upon historic harvest estimates by federally qualified subsistence users in the areas considered under this proposal, adoption of this proposal would have no measureable impact on escapement or harvest by non-Federally qualified subsistence users.

Opportunities Provided by the State: The Kenai and Kasilof rivers are located in the Anchorage-Matsu-Kenai nonsubsistence area, (5 AAC 99.015(a)(3)) and subsistence fishing under state regulations is not permitted.

Personal use fishing, sport fishing, and other fishing authorized by permit (i.e., educational fisheries) are permitted on Kenai and Kasilof river stocks, as well as commercial fishing.

1. The following personal use fisheries are available on the Kasilof and Kenai rivers for the harvest of salmon (5 AAC 77.540), with an annual harvest limit of 25 salmon for the head of each household and 10 salmon for each additional household member (5 AAC 77.525):
    a. Kasilof River Gillnet Personal Use Fishery. From 2011–2015 the total average annual harvest was 85 Chinook salmon and 21,398 sockeye salmon. Permit data indicate that Ninilchik households harvested an average of 113 sockeye salmon annually.
    b. Kasilof River Dip Net Personal Use Fishery. From 2011–2015 the total average annual harvest was 77,245 sockeye salmon, and permit data indicate that Ninilchik households harvested an average of 396 sockeye salmon.
    c. Kenai River Dip Net Personal Use Fishery. From 2011–2015 the total average annual harvest was 433,867 sockeye salmon, and permit data indicate that Ninilchik households harvested an average of 1,768 sockeye salmon.

2. Other fisheries authorized by permit (i.e., educational fishery; 5 AAC 93.200—5 AAC 93.235) that are used by Ninilchik residents to harvest salmon:
    a. Ninilchik Traditional Council Educational Fishery Permit, which allows a total salmon quota of 2,800 annually.
    b. Ninilchik Native Descendants Educational Fishery Permit, which allows a total salmon quota of 2,800 annually.
    c. Ninilchik Emergency Services Educational Fishery Permit, which allows a total salmon quota of 250 annually.

    In these fisheries from 2011–2015 the combined average annual harvest was 706 sockeye, 110 Chinook salmon, and 1,143 salmon (all species combined).

Conservation Issues: There are no stock concerns for Kenai River Chinook, sockeye, coho, or pink salmon as defined by the *Alaska Sustainable Salmon Fisheries Policy*. There are conservation issues with larger,

older, 5-ocean tributary spawning Chinook salmon that arrive during the early-run fishery because they are no longer at historical abundance levels. To protect this stock, the Board of Fisheries has prohibited the harvest of these fish through size limit regulations in the sport fishery: the bag and possession limit for Chinook salmon in the Kenai River from January 1 through June 30 is one per day, one in possession, must be less than 42 inches in length or longer than 55 inches. This slot limit remains in effect even when the Kenai River early-run Chinook salmon escapement goal is met or exceeded.

In addition, rainbow trout are managed more conservatively in the Kenai River than under statewide regulations under the *Wild Trout Policy,* with closed seasons during historical spawning activity and reduced bag, possession, and annual limits.

Recommendation: The State is NEUTRAL on the option to defer the proposal. The State concurs with the recommendations of the USFWS OSM on the following issues:

Request 1: SUPPORT removing all language distinguishing the early- and late-runs of Chinook salmon from the Federal Russian and Kenai rivers dipnet/rod and reel fishery regulations. This would simplify Federal regulations.

Request 2: OPPOSE the closure to harvest, and the requirement of immediate release of Chinook salmon, in the Kenai River Federal dipnet/rod and reel fishery downstream of Skilak Lake from River Mile (RM) 48 downstream to RM 45.5. The Federal fishery would be restricted but the State sport fishery would remain open. The State finds no biological justification to close this section of water when escapement goals are projected to be met and size restrictions are required to protect 5-ocean tributary spawning Chinook salmon.

Request 3: OPPOSE allowing the harvest of Chinook salmon in the Kenai River in the Moose Range Meadows area from RM 29 downstream to RM 26.5 between July 16 and September 30 in the Russian and Kenai rivers dipnet/rod and reel fishery. The Federal fishery would be restricted but the State sport fishery would remain open. The State finds no biological justification to close this section of water when escapement goals are projected to be met and size restrictions are required to protect 5-ocean tributary spawning Chinook salmon.

Request 4: OPPOSE removal of the 1,000 fish annual total harvest limit for Chinook salmon, and decreasing the annual household limit from 10 to 4 in the Kenai River dipnet/rod and reel regulations. Removing the 1,000 fish Chinook salmon limit, even if the household limit were decreased, it may actually increase harvest on the early-run component of the stock if the language distinguishing the early- and late-runs of Chinook salmon are removed and fishing is allowed during May – mid July.

Request 5: OPPOSE specifying that salmon taken in the Kasilof River experimental community gillnet fishery by the residents of Ninilchik be included in each household's annual household limit for the Kenai River dipnet/rod and reel fishery. The change would create more regulatory complexity.

Request 6: SUPPORT removing the references to early- and late-run Chinook salmon on the Kenai River, if the dates in the Federal regulations are the same as in the State regulations. The State considers early-run Chinook salmon to be returning before July 1, and the late run to begin on July 1. Removing the references simplifies Federal regulations.

Request 7: OPPOSE specifying that Kenai River Chinook salmon rod and reel harvest be restricted to the Moose Range Meadows area (RM 29 downstream to RM 26.5) between July 16 and August 31; OPPOSE the change in harvest limits; OPPOSE the new slot limit. The Federal fishery would be restricted but the State sport fishery would remain open. The State finds no biological justification to close this section of water when escapement goals are projected to be met and size restrictions are required to protect 5-ocean tributary spawning Chinook salmon.

Request 8: OPPOSE prohibiting harvest and require immediate release of Chinook salmon downstream of Skilak Lake in the Kenai River, from RM 50 downstream to RM 45.5 in the Kenai River rod and reel fishery. The Federal fishery would be restricted but the State sport fishery would remain open. The State finds no biological justification to close this section of water when escapement goals are projected to be met and size restrictions are required to protect 5-ocean tributary spawning Chinook salmon.

WRITTEN PUBLIC COMMENTS

Wednesday, May 25, 2016

ATTN: Theo Matusko-
witz Federal Subsistence
Board
Office of Subsistence Manage-
ment 1011 E. Tudor Road,
MS-121 Anchorage, AK
99503-6199 Subsist-
ence@fws.gov

FSB 2017 – 2019 Fisheries Proposals

Dear Federal Subsistence Board / Southcentral Regional Advisory Council;

Kenai River Sportfishing Association (KRSA) is a 501 c 3 charitable non-profit organization, with a focus on fishery conservation for the Kenai River, greater Cook Inlet and Alaska. We provide these comments on the FSB 2017 – 2019 Fisheries Proposals, specifically those for the Cook Inlet region, FP17-06 – 10.

KRSA supports fisheries management regulations that accomplish two objectives: 1) provide meaningful access and opportunity to subsistence, personal use, sport and commercial fisheries, and 2) follow necessary fishery conservation principles. With respect to time, area, methods and means for subsistence, personal use and sport fisheries within the Kenai River drainage, we support the use of selective gear to harvest fish, such as rod and reel and dip nets. We do not support the use of non- selective gear, such as gillnets, to harvest fish within the Kenai River drainage.

The reason is that selective gear, as opposed to non-selective gear, allows for the live release and high probability of survival for fish that are designated for non-retention for conservation purposes, such as the continued viability of specific fish stocks. Slot limits for fish stocks in fisheries management are similar to hunting restrictions, such as antler restrictions for moose (spike or fork antler, or 50-inch spread, or at least three brow tines on one antler). Judicial review on antler restrictions for subsistence moose hunting determined that a meaningful subsistence priority is not absolute and must be reasonably balanced with conservation issues and other uses.

Conservation based fishery regulations on the Kenai River include non-retention of slot-limit Chinook

and of rainbow trout / Dolly Varden over 18 inches, for waters below Skilak Lake. Above Skilak Lake there is no retention of Chinook or rainbow trout / Dolly Varden over 16 inches. On the Kasilof River such regulations include the non-retention of Steelhead Trout.

As such, KRSA supports the adoption of FP17 – 06 and FP17 – 07, which would remove gillnets as a method and means for gear in subsistence fisheries on the Kenai River. We concur with the fisheries conservation rationale as outlined in these respective proposals for this change. FP17-08 is a complex proposal that seeks to both streamline and change regulations, and we have no comment on each of the subcomponents at this time.

FP17-09 and FP17-10 seek to extend the window of time for use of a community gillnet (NTC) on the Kasilof and Kenai Rivers respectively. On the Kasilof River, the proposal seeks to change the use of a community gillnet from July 1 – July 31 to May 1 – November 15. We do not support the proposed expansion of the time frame due to fishery conservation concerns relating to the retention of Chinook salmon and Steelhead Trout during the expanded timeframe. On the Kenai River, the proposal seeks to change the use of a community gillnet from June 15 – August 15 to May 1 – November 15. We do not support the proposed expansion of time frame due to fishery conservation concerns relating to the retention of Chinook salmon, rainbow trout and Dolly Varden. The rationale of the fishery conservation concern is clearly outlined in the USFWS proposals FP17 – 07 and FP17 – 08.

We encourage both the Southcentral RAC and the Federal Subsistence Board remove the use of gillnets as gear for subsistence fisheries on the Kenai River, and to keep in place the time frame for its use on the Kasilof River. The justification is based on well documented fishery conservation issues that have been articulated thoroughly by both federal and state fishery professionals.

Thank you for your time and consideration on this matter.

Respectfully,

Ricky Gease, Executive Director
Kenai River Sportfishing Association

Chris Degernes
PO Box 683
Cooper Landing, AK 99572
Jaeger06@hotmail.com

May 22, 2016

Office of Subsistence Management
Attn: Regulations Specialist
1011 East Tudor Road, Mail Stop 121
Anchorage, Alaska 99503-6199

Re: Comments on Federal Subsistence Management Program 2017-2019 Fisheries Proposals Dear Mr.

Matuskowitz:

I have reviewed the specific proposals relating to regulation changes within the Cook Inlet area, specifically addressing the Kenai River. I support the recommendations found within FP 17-06, FP 17-07 and FP 17-08, while I oppose the proposals made within FP 17-09 and FP 17-10.

I am an authorized federal subsistence permittee residing in Cooper Landing and have utilized the dip net fishery at the Russian River Falls for a number of years. I believe that the conservation and sustainable management of our anadromous and resident fish is paramount to providing for the long term sustainability of our fisheries, thereby supporting our continued quality of life. If a particular method of harvest (i.e., gill net use) creates a risk to certain populations of fish, then it should be prohibited in favor of more discriminate type of harvest (i.e., rod and reel, dip net, etc.) Expediency and efficiency should not be factors in deciding what method of harvest may be permitted.

I urge that the new regulations delete permanently any provision authorizing gill nets on the Kenai River for subsistence harvest purposes, and that all Kenai River Chinook salmon are afforded protection while their numbers are at such historically low numbers. Thank you for considering my comments.

Sincerely, Chris Degernes

May 17, 2016

Michael Adams
PO Box 847
Cooper Landing, AK 99572

Attn: Theo Matuskowitz
Federal Subsistence Board
Office of Subsistence Management
1O11 E. Tudor Rd., MS-121
Anchorage, Ak 99503-6199

I am a subsistence fisherman and I rely heavily on the Kenai River. I support FP17-08.

One of the tenants of a sustainable subsistence lifestyle is conservation. This lesson has been handed down in nearly all families who rely on a subsistence lifestyle. As more and more data is compiled we have the ability to make better decisions on where and when we can sustainably harvest our food so that our children and grandchildren have the opportunity to participate in the lifestyle that we value so much.

FP17-08 clearly defines the scientific reasons for a more conservative approach to fishing specific areas of the Kenai River for Chinook salmon at a time when we are facing a statewide decline In Chinook stocks. I believe this proposal has the intent of protecting important spawning grounds from potential overharvest while still allowing us (subsistence users) an adequate priority for harvest.

Please vote Yes on FP-17-08

Sincerely,

Michael Adams

38053 Snug
Harbor Road
Cooper Landing,
AK 99572

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Cook Inlet Area Fisheries proposals

AK Subsistence, FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:04 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **George Heim** <gheim2000@gmail.com>
Date: Thu, May 26, 2016 at 7:33 PM
Subject: Cook Inlet Area Fisheries proposals
To: subsistence@fws.gov

To Whom It May Concern:

I am writing to express support for FP-17-06, FP-17-07, & FP-17-08 and to oppose FP-17-09, & FP-17-10.

The Cooper Landing Advisory Committee held a meeting on May 14th to discuss these proposals. Due to predictable schedule conflicts for the
AC members at this time of year and the short notice between publishing the proposals and due date for comments, we were not able to convene a quorum. However, the members present were unanimous in supporting proposals to remove gill nets from the Kenai and to close a section of the Kenai River that is important for Chinook spawning activities and to oppose liberalization of gill nets in the Kasilof and to expand gill nets in the Kenai.

We were concerned about bycatch of non-target species in both waters including rainbow trout, dolly varden and king salmon in the Kenai and steelhead and king salmon in the Kasilof. Of particular concern was the possibility that rainbow trout in the Kenai and Steelhead in the Kasilof would be caught in the nets. Since there is no retention allowed for these species in those waters, and since any fish in a gill net is very likely to be killed persons operating the nets would be in violation of both State and Federal regulation and subject to penalties. Obviously, this is not a desirable situation. Even if a fish is released from the net alive, it will have been injured and is likely to die after release. This would be wanton waste and should not be allowed.

Sincerely,

George Heim, President

Cooper Landing Advisory Committee to ADF&G

907-599-2000
PO Box 725
Cooper Landing, AK 99572

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OSM is in receipt of your comments.

Thank you

May 22, 2016

Comment on
FP17-08 + 09

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

Dear Theo,

I am opposed to proposal FP17-07, Nnilchik's proposal to place a gill net across the Kenai River as well as FP17-08 that restricts when & where a person may take late run Chinook. In addition, I am opposed to proposal FP17-09 that requests that only residents of Nenilchik may harvest salmon, with a gill net on the Kasilof and Kenai Rivers. These proposals go against conservation efforts to maintain a healthy number of salmon for future generations on these rivers.

As a member of the Cooper Landing Community for the last twelve years I am grateful for the ability to subsistence fish through traditional means using rod and reel and dip net because these methods prove that we can maintain and conserve the Kenai River for salmon.

Thank you for the opportunity to have a voice in continuing to protect conservation efforts as well as subsistence fishing rights on the Kenai River.

Gratefully,
Joyce Koppert

Appendix A – State of Alaska Sustainable Salmon Fisheries Policy

5 AAC 39.222. Policy for the management of sustainable salmon fisheries

(a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

(1) while, in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

(2) in formulating fishery management plans designed to achieve maximum or optimum salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;

(3) to effectively assure sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

(1) wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the

effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

(C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;

(D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;

(E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;

(F) salmon escapement and harvest management decisions should be made in a manner that protects nontarget salmon stocks or species;

(G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;

(H) salmon abundance trends should be monitored and considered in harvest management decisions;

(3) effective management systems should be established and applied to regulate human activities that affect salmon as follows:

(A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;

(B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;

(C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for by management plans or by application of the board's allocation criteria;

(D) management agencies should have clear authority in statute and regulation to

(i) control all sources of fishing mortality on salmon;

(ii) protect salmon habitats and control nonfishing sources of mortality;

(E) management programs should be effective in

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(G) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;

(H) the board will work, within the limits of its authority, to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized;

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;

(J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for sustainable management of existing salmon fisheries and wild salmon stocks;

(K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure sustainable management of wild salmon stocks;

(L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;

(M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;

(P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:

(A) effective mechanisms for dispute resolution should be developed and used;

(B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;

(C) the board's regulatory management and allocation decisions will be made in an open process with public involvement;

(D) an understanding of the proportion of mortality inflicted on each salmon stock by each user

group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including AS 16.05.251 (e) and AS 16.05.258 ; in the absence of a regulatory management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;

(E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

(A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;

(iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource;

(v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

(1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy salmon stocks and sustainable salmon fisheries;

(D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the

(i) identification of a new fishery or expanding fishery;

(ii) identification of any salmon stocks, or populations within stocks, that present a concern

related to yield, management, or conservation; and

(iii) description of management and research options to address salmon stock or habitat concerns;

(2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize the adverse effects on salmon habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;

(D) prevent overfishing; and

(E) provide conservation and management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource;

(3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will, as appropriate, amend or develop salmon fishery management plans to address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including

(A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;

(B) identification of salmon stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;

(D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; and

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority

that impacts the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;

(2) "allocation criteria" means the factors set out in AS 16.05.251 (e) considered by the board as appropriate to particular allocation decisions under 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007;

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(4) "burden of conservation" means the restrictions imposed by the board or department upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;

(5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time of most salmon species;

(6) "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;

(7) "depleted salmon stock" means a salmon stock for which there is a conservation concern;

(8) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;

(9) "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;

(10) "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;

(11) "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;

(12) "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;

(13) "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;

(14) "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to

result in, impacts leading to yield, management, or conservation concerns;

(15) "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

(16) "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;

(17) "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;

(18) "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(19) "inriver run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;

(20) "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced salmon stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;

(21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG, BEG, OEG, or other specified management objectives for the fishery; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(23) "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;

(24) "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a nonconsumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;

(28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that

are expressed physically, such as body size and length at age;

(29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;

(30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;

(31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;

(32) "salmon" means the five wild anadromous semelparous Pacific salmon species Oncorhynchus sp., except steelhead and cutthroat trout, native to Alaska as follows:

(A) Chinook or king salmon (O. tschawytscha);

(B) sockeye or red salmon (O. nerka);

(C) coho or silver salmon (O. kisutch);

(D) pink or humpback salmon (O. gorbuscha); and

(E) chum or dog salmon (O. keta);

(33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;

(34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;

(35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated or managed for; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board; the SEG will be developed from the best available biological information; and should be scientifically defensible on the basis of that information; the SEG will be determined by the department and will take into account data uncertainty and be stated as either a "SEG range" or "lower bound SEG"; the department will seek to maintain escapements within the bounds of the SEG range or above the level of a lower bound SEG;

(37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

(40) "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;

(41) "yield" means the number or weight of salmon harvested in a particular year or season from a stock;

(42) "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;

(43) "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time;

(44) "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

History: Eff. 9/30/2000, Register 155; am 11/16/2000, Register 156; am 6/22/2001, Register 158; am 6/10/2010, Register 194

Authority: AS 16.05.251

FP17-10 Executive Summary	
General Description	Proposal FP17-10 requests expansion of harvest season and numerous other changes to the regulations for the Kenai River community gillnet fishery. As written, this would be a replacement of all current regulatory language for this section. *Submitted by: The Ninilchik Traditional Council.*
Proposed Regulation	*§___.27(e)(10)(iv)**(J) The Ninilchik Traditional Council (NTC) may operate a community gillnet to provide for the subsistence uses of fish for the residents of Ninilchik from May 1st through November 15th. Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink Salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow Trout and Dolly Varden 18 inches or longer. Rainbow Trout and Dolly Varden 18 inches or greater must be released.*** ***(1) The Ninilchik Traditional Council shall provide notice to the Office of Subsistence Management no later than February 1st of its intent to operate a gillnet fishery. No later than April 1st, a subsistence gillnet permit will be issued by the Office of Subsistence Management in consultation with the Federal in-season fishery manager, the Kenai National Wildlife Refuge Manager, and the Ninilchik Traditional Council.*** ***(2) The permit conditions shall include:*** ***(i) Provisions that the gillnet may be not be over 10 fathoms in length, shall be constructed such that it is directed at harvesting Sockeye, Chinook, Coho, and Pink Salmon, may not obstruct more than half of the river width with stationary fishing gear, and may not be set within 200 feet of other subsistence stationary gear.*** ***(ii) Identification of the person or persons who will be responsible for the overall operation of the gillnet as well as a means for identifying persons authorized by the Tribe to supervise members of the community engaged in fishing the net.*** ***(iii) Provisions for recording daily catches, ensuring that removal of the dorsal fins of harvested fish, and identifying the Ninilchik households to whom the catch was distributed.***

	(iv) Provisions for NTC's reporting of all harvested fish within 72 hours of leaving the gillnet location. ***(v) Identification of a collaborative process for making determinations about potential closures or other actions affecting the gillnet fishery through which NTC and the SCRAC are fully informed and consulted prior to the implementation of any such action.*** ***(3) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kenai River.***
OSM Conclusion	**Option 1**: **Defer** (see page 452). **Option 2**: **Support with modification** to only add a required permit condition that NTC will report all fish harvested within 72 hours of leaving the gillnet location (see page 453). Request 1: **Oppose** Request 2: **Oppose** Request 3: **Oppose** Request 4: **Oppose** Request 5: **Oppose** Request 6: **Support** Request 7: **Oppose** See pages 453 - 454 for modified regulatory language.
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	**Support with modification** to change fishery dates to June 15 through September 30. See pages 465 - 466 for modified regulatory language.
Interagency Staff Committee Comments	**See page** 467
ADF&G Comments	**Option 1**: **Neutral** **Option 2**: **Support with modification** (see page 468).
Written Public Comments	**8 Oppose**

STAFF ANALYSIS
FP17-10

ISSUES

Proposal FP17-10, submitted by the Ninilchik Traditional Council (NTC), requests that the Federal Subsistence Board (Board): 1) expand the season dates of the Kenai River community gillnet fishery; 2) make the Office of Subsistence Management (OSM) the issuer of the registration permit (rather than the Federal in-season fishery manager); 3) replace the operational plan requirement of the permit with specific permit conditions; 4) designate NTC in regulation as the coordinator of the community gillnet fishery; 5) remove the post-season reporting requirement; 6) add NTC reporting all fish harvested within 72 hours of leaving the gillnet location as a permit condition; and 7) establish a collaborative process through which NTC and the Southcentral Alaska Subsistence Regional Advisory Council (Council) are informed and consulted prior to any potential closures or other actions by the Federal in-season fishery manager. This would be a replacement of all current regulatory language for §___.27(e)(10)(J) if adopted as written by the proponent.

DISCUSSION

The proponent states that this "gillnet fishery is essential to provide for meaningful subsistence fishing opportunity" for the Federally qualified users residing in the community of Ninilchik. The proponent is also requesting specific permit conditions instead of requiring an operational plan. The proponent states that current reporting requirements are "undue and excessively burdensome," the operational plan and process is "vulnerable to abuse," there are currently "unreasonable sanctions against subsistence users," and the current practice of Federal and State managers "has given preference to sport and commercial users before subsistence users." They also note that NTC represents the entire community of Ninilchik, and has put forth all of the effort to date to establish and run this fishery, and therefore should be designated in Federal regulation as the entity that coordinates the community gillnet fishery.

The proponent states that these changes would provide "more security that the residents of Ninilchik will actually have the opportunity for a gillnet fishery." The proponent asserts that it seeks to remove repeated language in the regulations, to provide reasonable choices to subsistence users, and provide for the retention of all fish harvested in the community gillnet, as retention is consistent with customary and traditional values and practices.

Currently, Federally qualified subsistence users of Cooper Landing, Hope, and Ninilchik may harvest salmon with dip nets and rod and reel in the Federal public waters in three areas of the Kenai River drainage: the Russian River just below the Russian River Falls; the Kenai River two miles below the outlet to Skilak Lake, from approximately River Mile (RM) 45.5 to RM 48; and the Kenai River in the Moose Range Meadows area, from approximately RM 26.5 to RM 29. Residents of the three communities may also harvest salmon with a rod and reel in all Federal public waters of the Kenai River watershed; with most seasons, areas, harvest and possession limits, and means and methods for taking the same as under Alaska sport fishing regulations. Federally qualified subsistence users from Ninilchik may also harvest salmon

species in the Kenai River with a community gillnet that is no more than 10 fathoms in length, under a registration permit issued by the Federal in-season fisheries manager. Issuance of the permit is contingent upon the Federal in-season manager's approval of an operational plan by a Federally qualified subsistence user from Ninilchik or an organization representing the residents of Ninilchik. The Federal in-season manager has not approved an operational plan to date for the Kenai River community gillnet fishery. However, fishing commenced during the 2016 season on an experimental basis following the Federal Subsistence Board (Board) approval with modification of Emergency Special Action FSA16-02.

The community gillnet fishery for the Kenai River, unlike the community gillnet fishery on the Kasilof River, was not designated as an "experimental fishery" when these fisheries were adopted by the Board in 2015. Proposal FP17-10 is related to Proposals FP17-06, FP17-07, and FP17-08, as all will affect the Kenai River community gillnet fishery. The Board's decision on FP17-06, -07, and -08 will have a bearing on FP17-10.

Existing Federal Regulation

Cook Inlet Area

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

<u>Kenai River community gillnet fishery</u>

§___.27(e)(10)(iv)(J) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow Trout and Dolly Varden 18 inches or longer. Rainbow Trout and Dolly Varden 18 inches or greater must be released.

(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:

(i) Prior to the season, provide a written operational plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;

(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.

(3)The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i)Identifies a person who will be responsible for fishing the gillnet;

(ii)Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.

(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.

(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

<u>Kenai River dip net and rod and reel fishery (riverbank restrictions and harvest limits by species)</u>

§___.27(e)(10)(iv)(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and Sockeye, late-run Chinook, Coho, and Pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. 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), Rainbow Trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. 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. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum Salmon that are retained are to be included within the annual limit for Sockeye Salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).

(3) Each household may harvest their annual Sockeye, late-run Chinook, Coho, or Pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.

(i) For Sockeye Salmon—annual total harvest limit of 4,000 (including any retained Chum Salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;

(ii) For late-run Chinook Salmon—annual total harvest limit of 1,000; annual household limits of 10 for each permit holder and 2 additional for each household member;

(iii) For Coho Salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household member; and

(iv) For Pink Salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.

Kenai National Wildlife Refuge riverbanks restrictions at Moose Range Meadows

Kenai National Wildlife Refuge

§36.39(i)(7) Fishing. We allow fishing on the refuge in accordance with State and Federal laws, and consistent with the following provisions:

(ii) Designated areas along the Kenai River at the two Moose Range Meadows public fishing facilities along Keystone Drive are closed to public access and use. At these facilities, we allow fishing only from the fishing platforms and by wading in the Kenai River. To access the river, you must enter and exit from the stairways attached to the fishing platforms. We prohibit fishing from, walking or placing belongings on, or otherwise occupying designated areas along the river in these areas.

(12) Area-specific regulations for the Moose Range Meadows Subdivision non-development and public use easements.

(i) Where the refuge administers two variable width, non-development easements held by the United States and overlaying private lands within the Moose Range Meadows Subdivision on either shore of the Kenai River between river miles 25.1 and 28.1, you may not erect any building or structure of any kind; remove or disturb gravel, topsoil, peat, or organic material; remove or disturb any tree, shrub, or plant material of any kind; start a fire; or use a motorized vehicle of any kind (except a wheelchair occupied by a person with a disability), unless such use is authorized under the terms and conditions of a special use permit (FWS Form 3-1383-G) issued by the Refuge Manager.

(ii) Where the refuge administers two 25-foot-wide public use easements held by the United States and overlaying private lands within the Moose Range Meadows Subdivision on either shore of the Kenai River between river miles 25.1 and 28.1, we allow public entry subject to applicable Federal regulations and the following provisions:

(A) You may walk upon or along, fish from, or launch or beach a boat upon an area 25 feet upland of ordinary high water, provided that no vehicles (except wheelchairs) are used. We prohibit non-emergency camping, structure construction, and brush or tree cutting within the easements.

(B) From July 1 to August 15, you may not use or access any portion of the 25-foot-wide public easements or the three designated public easement trails located parallel to the Homer Electric Association Right-of-Way from Funny River Road and Keystone Drive to the downstream limits of the public use easements. Maps depicting the seasonal closure are available from Refuge Headquarters.

Proposed Federal Regulation

Cook Inlet Area

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

~~*(J) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow Trout and Dolly Varden 18 inches or longer. Rainbow Trout and Dolly Varden 18 inches or greater must be released.*~~

~~*(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.*~~

~~*(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:*~~

~~*(i) Prior to the season, provide a written operational plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;*~~

~~*(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.*~~

~~*(3)The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:*~~

~~*(i)Identifies a person who will be responsible for fishing the gillnet;*~~

~~*(ii)Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for*~~

~~*effective resource management by the Federal fishery manager.*~~

~~*(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.*~~

~~*(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.*~~

~~*(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.*~~

(J) The Ninilchik Traditional Council (NTC) may operate a community gillnet to provide for the subsistence uses of fish for the residents of Ninilchik from May 1st through November 15th. Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink Salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow Trout and Dolly Varden 18 inches or longer. Rainbow Trout and Dolly Varden 18 inches or greater must be released.

(1) The Ninilchik Traditional Council shall provide notice to the Office of Subsistence Management no later than February 1st of its intent to operate a gillnet fishery. No later than April 1st, a subsistence gillnet permit will be issued by the Office of Subsistence Management in consultation with the Federal in-season fishery manager, the Kenai National Wildlife Refuge Manager, and the Ninilchik Traditional Council.

(2) The permit conditions shall include:

(i) Provisions that the gillnet may be not be over 10 fathoms in length, shall be constructed such that it is directed at harvesting Sockeye, Chinook, Coho, and Pink Salmon, may not obstruct more than half of the river width with stationary fishing gear, and may not be set within 200 feet of other subsistence stationary gear.

(ii) Identification of the person or persons who will be responsible for the overall operation of the gillnet as well as a means for identifying persons authorized by the Tribe to supervise members of the community engaged in fishing the net.

(iii) Provisions for recording daily catches, ensuring that removal of the dorsal fins of harvested fish, and identifying the Ninilchik households to

whom the catch was distributed.

(iv) Provisions for NTC's reporting of all harvested fish within 72 hours of leaving the gillnet location.

(v) Identification of a collaborative process for making determinations about potential closures or other actions affecting the gillnet fishery through which NTC and the SCRAC are fully informed and consulted prior to the implementation of any such action.

(3) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kenai River.

Existing State Regulation

The Kenai Peninsula is a designated nonsubsistence use area by the State. As such, the State's subsistence priority does not apply on the Kenai Peninsula and the Alaska Board of Fisheries may not authorize subsistence fisheries in nonsubsistence areas. 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. The management of Kenai River fisheries is conducted through several fisheries management plans, as outlined in the State Regulatory History section below.

In addition, the following State regulations have been implemented for the protection of riparian habitat along areas of the Kenai River by prohibiting or restricting access to fishing locations at certain times of year:

5 AAC 56.065. Riparian Habitat Fishery Management Plan

(d) From July 1 through August 15, the following Kenai River riparian habitats are closed to all fishing, except fishing from a boat that is located more than 10 feet from shore and not connected to the shore or any riparian habitat:

(15) on the south bank of the Kenai River, between ADF&G regulatory markers located at river mile 26.4 and river mile 30.0;

(16) on the north bank of the Kenai River from an ADF&G regulatory marker located at the upstream edge of the boat ramp at the end of Keystone Drive at approximately river mile 27.3, upstream to ADF&G regulatory markers located at the Kenai National Wildlife Refuge boundary delineated by the power line at river mile 28.0;

(17) in the Caymas Subdivision, on the north bank of the Kenai River, between ADF&G regulatory markers located at river mile 31.5 and 32.5;

(e) For purposes of this section, "riparian habitat" means all areas within 10 feet in either

direction from the Kenai River waterline.

Extent of Federal Public Waters

Federal public waters are defined and described under 36 CFR 242.3 and 50 CFR100.3. For the Kenai River, 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 the Chugach National Forest (**Map 1).** These include Kenai Lake and its tributaries and all water downstream to the confluence of the upper branch of the Killey River (approximately RM 45.5; **Map 2**), the mainstem Kenai River between RM 26.5 and RM 29 (**Map 3**), which is 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.

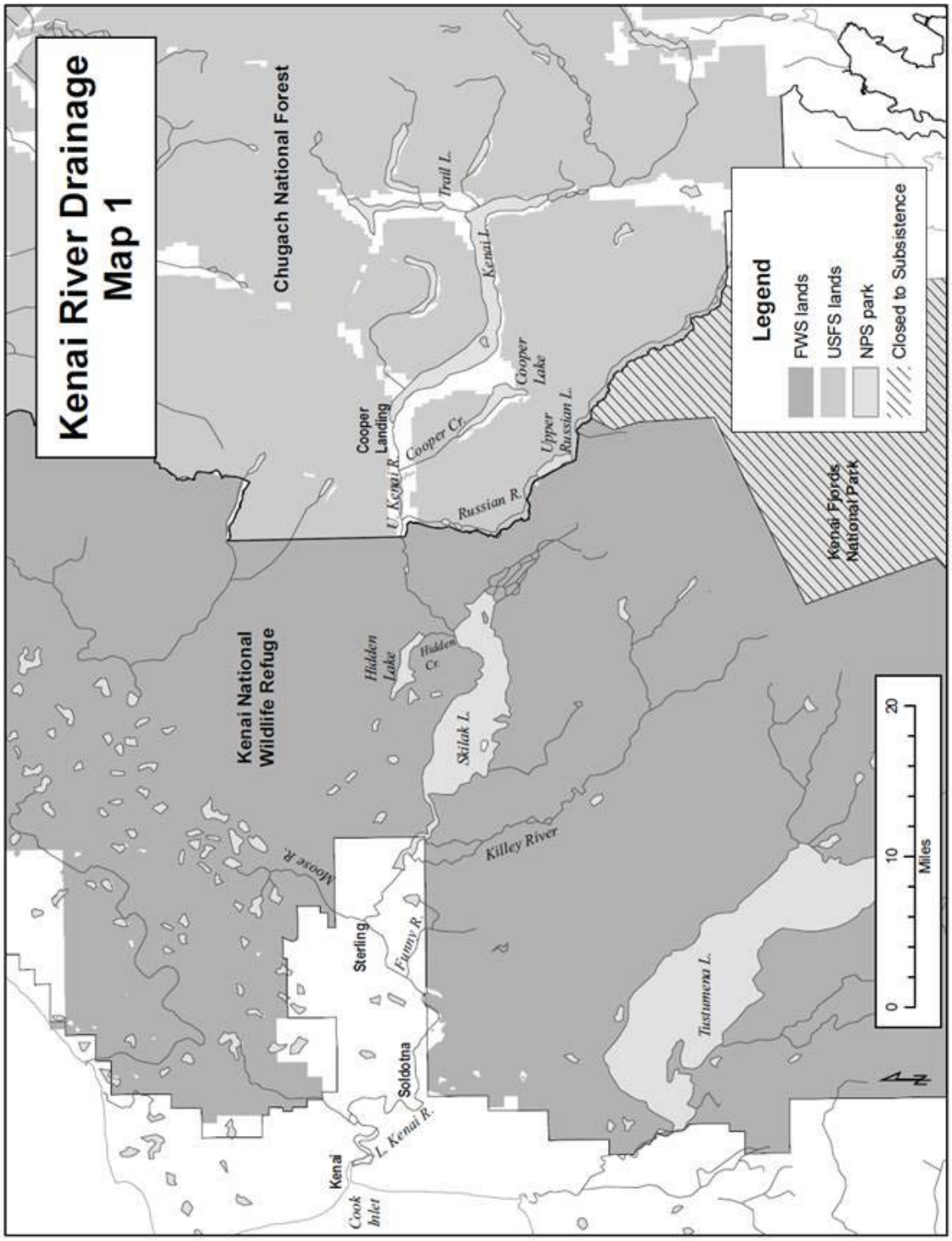
Regulatory History

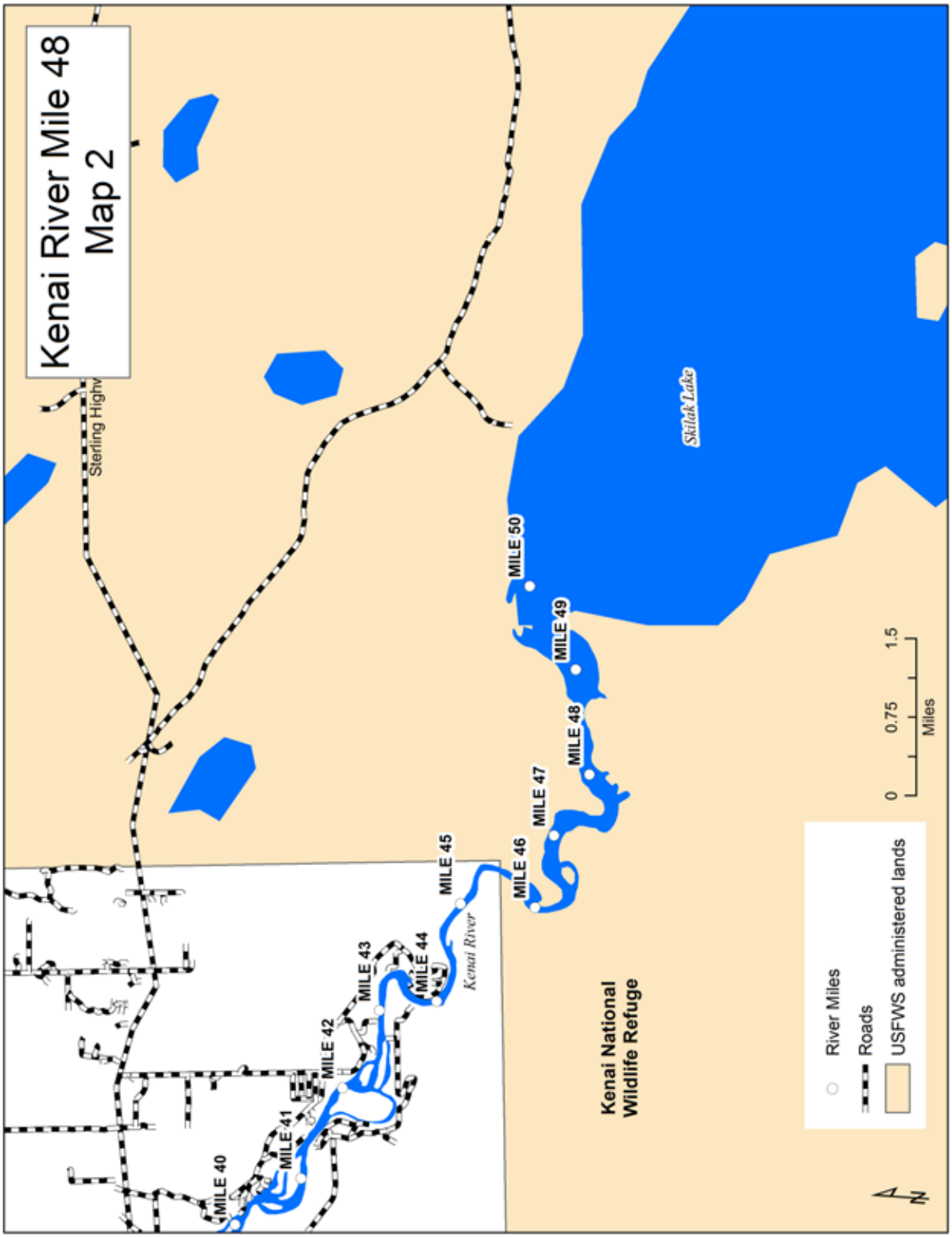
Pre- and Early Statehood Fisheries

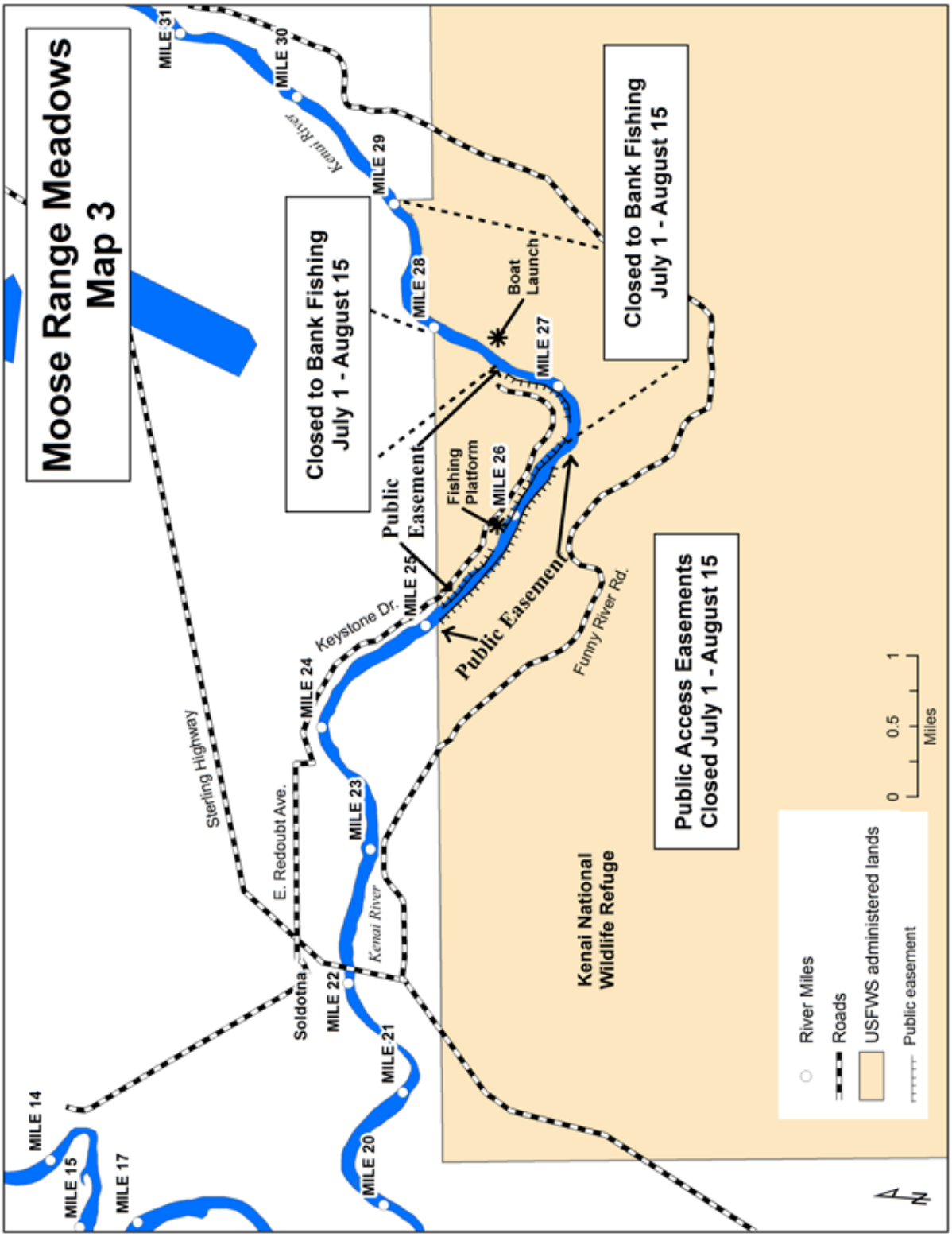
Prior to 1952, freshwater streams in the Kenai Peninsula were open to subsistence fishing, but poorly managed commercial fisheries, a growing local and territory-wide resident population, and increased user pressure decimated salmon runs. In 1952, as part of efforts to rebuild salmon runs, all streams 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).

Contemporary State Fisheries

Overall, the State of Alaska manages commercial and sport salmon fisheries statewide based on the principles and criteria listed in the State's Policy for the management of sustainable salmon fisheries, 5AAC 39.222 (**Appendix A**). A State regulatory management plan for Upper Cook Inlet salmon (5 AAC 21.363) provides the Alaska Board of Fisheries guiding principles and provisions for adopting management plans for specific stocks. 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,


Kenai River Drainage
Map 1
Chugach National Forest
Trail L.
Kenai L.
Cooper Lake
Upper Russian L.
Cooper Landing
Cooper Cr.
U. Kenai R.
Russian R.
Legend
FWS lands
USFS lands
NPS park
Closed to Subsistence
Kenai Fjords National Park
Kenai National Wildlife Refuge
Hidden Lake
Hidden Cr.
Skilak L.
Killey River
Moose R.
Sterling
Funny R.
Soldotna
L. Kenai R.
Kenai
Cook Inlet
Tustumena L.
0
10
20
Miles


Kenai River Mile 48
Map 2
Sterling Highw
Skilak Lake
MILE 50
MILE 49
MILE 48
MILE 47
MILE 46
MILE 45
MILE 44
MILE 43
MILE 42
MILE 41
MILE 40
Kenai River
Kenai National
Wildlife Refuge
River Miles
Roads
USFWS administered lands
0
0.75
1.5
Miles
N


Moose Range Meadows
Map 3
MILE 31
MILE 30
Kenai River
MILE 29
MILE 28
Closed to Bank Fishing
July 1 - August 15
Boat
Launch
MILE 27
Closed to Bank Fishing
July 1 - August 15
Public
Easement
Fishing
Platform
MILE 26
MILE 25
Public Easement
Keystone Dr.
Funny River Rd.
MILE 24
Sterling Highway
E. Redoubt Ave.
MILE 23
Public Access Easements
Closed July 1 - August 15
Kenai National
Wildlife Refuge
Kenai River
Soldotna
MILE 22
MILE 21
MILE 14
MILE 15
MILE 17
MILE 20
River Miles
Roads
USFWS administered lands
Public easement
0
0.5
1
Miles
N

Port Chatham, and Port Graham subdistricts, as well as portions of Seldovia Bay and the Yentna River drainage.

The Kenai River fisheries are complex and intensively managed by the State of Alaska. There are five management plans that apply to Kenai River salmon stocks:

Upper Cook Inlet Salmon Management Plan (5 AAC 21.363)
Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 56.070)
Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359)
Kenai River Late-Run Sockeye Salmon Management Plan (5 AAC 21.360)
Kenai River Coho Salmon Management Plan (5 AAC 56.080)

These plans provide goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and instructions for allocation between competing fisheries. Most of the initial Federal subsistence fishing regulations for the Kenai River that were put in place during the period of 2006 – 2008, were based on these plans to mirror State of Alaska regulations, conservation efforts, and management.

The State also has a regulatory management plan for Upper Cook Inlet personal use salmon fisheries (5 AAC 77.540). This plan established four personal use fisheries in Cook Inlet: Kasilof River dip net, Kasilof River set gillnet, Kenai River dip net, and Fish Creek dip net. Unlike subsistence fisheries, personal use fisheries do not have a priority over other existing uses. Personal use fisheries are open to all residents of Alaska, require a household permit and sport fishing license, occur in marine and intertidal waters, and are well downstream of Federal public waters in the Kenai River drainage. These fisheries target Sockeye Salmon, the species of greatest abundance and for which the best stock assessment information is available. Annual harvest limits are 25 salmon for the head of each household and 10 salmon for each additional household member. The limit is combined for all four fisheries. Incidentally caught Coho, Pink, and Chum Salmon may be retained as part of the annual limit. Each household is limited to one Chinook Salmon in the Kenai River dip net fishery.

Finally, the State administers up to twelve educational fisheries each year in the Cook Inlet area under the provisions of 5 AAC 93.200 – 93.235 (Nelson et al. 1999, Fall et al. 2004). Around half of these educational fisheries occur in marine waters near the mouths of Kenai Peninsula Rivers. The purpose of educational fisheries is to allow groups to practice traditional, contemporary, or experimental methods for locating, harvesting, or processing fishery resources. Educational fisheries like person use fisheries, but unlike subsistence fisheries, do not have statutory priority over other fisheries. Therefore, during times of resource shortages, educational fisheries could be restricted before or at the same time as commercial, sport and personal use fisheries are restricted.

Educational fishery permits have been issued to five local groups in the Kasilof/Kenai/Ninilchik area: the Kasilof Regional Historical Association, the Kenaitze Indian Tribe, Ninilchik Emergency Services, Ninilchik Native Decedents, and Ninilchik Traditional Council (Nelson et al. 1999, Begich et al. 2013; Kerkvliet et al. 2013; Shields and Dupuis 2016). The Kenaitze Indian Tribe has participated in an educational fishery since 1989, and has established educational fisheries in the marine environment adjacent

to the Kasilof, Kenai, and Swanson rivers, as well as limited fishing within the freshwaters of the Kenai and Swanson rivers. The Ninilchik Traditional Council has participated in an educational fishery since 1993 for the Ninilchik area fisheries and since 2007 for the Kasilof area fisheries. They are permitted to use two set gillnets in the marine waters near the mouth of the Ninilchik River (only 1 prior to June 22), one set gillnet in the marine waters near the mouth of the Kasilof River, and other traditional means in freshwaters of the Ninilchik River below the Sterling Highway bridge. In 1998, a group of NTC members formed a new organization called Ninilchik Native Decedents and the allocation was divided evenly between the two groups. They are permitted to use one set gillnet in the marine waters near the mouth of the Ninilchik River and other traditional means in freshwaters of the Ninilchik River below the Sterling Highway bridge. Ninilchik Emergency Services has participated in an educational fishery since 2003 in the Ninilchik area. They are permitted to use one set gillnet in the marine waters near the mouth of the Ninilchik River. The Kasilof Regional Historical Association has participated in an educational fishery since 2008, and is permitted a single set gillnet in the marine waters near the mouth of the Kasilof River. Permits for each group dictate total harvest, as well as specific limits for Chinook and Coho Salmon (**Table 1**).

Table 1. Harvest quota for each group, by species, and by location for Kasilof and Ninilchik River educational fisheries. Total quota is the number of all salmon species allowed for harvest, while Chinook and Coho Salmon quotas are specific limits for those species (Begich 2016a, pers. comm.; Kerkvliet 2016, pers. comm.).

Group	Total quota	Location(s)	Chinook quota	Coho quota
Ninilchik Traditional Council				
	2,800	Marine waters adjacent to the Kasilof River	100	300
		Marine waters near the Ninilchik River and freshwaters of the Ninilchik River below the Sterling Highway Bridge	100	200
Ninilchik Native Descendants				
	2,800	Marine waters adjacent to the Ninilchik River	50	150
Ninilchik Emergency Services				
	250	Marine waters adjacent to the Ninilchik River	25	50
Kenaitze Indian Tribe				
	10,000	Marine waters adjacent to the Kasilof River	-	500
		Marine waters adjacent to the Swanson River mouth and freshwaters of the Swanson River adjacent to the boat landing	25	200
		Marine waters adjacent to the Kenai River mouth and freshwaters of the Kenai River from one-quarter mile upstream of the Warren Ames Bridge downstream to the mouth	50	1,000
Kasilof Regional Historical Assn.				
	300	Marine waters adjacent to the Kasilof River	10	50

From 2010 to 2016, numerous State emergency orders were put in place to protect Chinook salmon in the Kenai River due to conservation concerns (**Table 2**)

Table 2. Emergency Orders issued by the Alaska Department of Fish and Game for Chinook Salmon in the Kenai River drainage between 2010 and 2016

Year	Number	Start Date	End Date	Action
2010	2-KS-1-12-10	6/5/2010	7/14/2010	Partial season closure for sport fishery
2010	2-KS-1-16-10	6/12/2010	7/14/2010	Restricted reopening for sport fishery
2010	2-KS-1-19-10	6/15/2010	7/31/2010	Reopen back to standard sport fishing regulations
2011	2-KS-1-17-11	6/29/2011	7/14/2011	Restrict sport fishery
2011	2-KS-1-20-11	7/15/2011	7/31/2011	Continue duration of restricted sport fishery
2012	2-KS-1-11-12	6/15/2012	7/14/2012	Restrict sport fishery
2013	2-KS-1-11-13	5/16/2013	7/14/2013	Restrict sport fishery
2013	2-KS-1-22-13	6/20/2013	7/14/2013	Close sport fishery in some areas, restrict in others
2013	2-KS-1-24-13	7/1/2013	7/31/2013	Restrict sport fishery
2013	2-KS-1-34-13	7/10/2013	7/31/2013	Prohibit retention of Chinook Salmon in personal use fishery
2013	2-KS-1-36-13	7/15/2013	7/31/2013	Close sport fishery
2013	2-KS-1-43-13	7/25/2013	7/31/2013	Allow harvest of fish less than 20 inches or greater than 55 inches
2013	2-KS-1-45-13	7/28/2013	7/31/2013	Close sport fishery
2013	2-KS-1-46-13	8/1/2013	8/15/2013	Prohibit use of bait and limit gear in the sport fishery
2014	2-KS-1-04-14	5/1/2014	7/31/2014	Close sport fishery for early-run
2014	2-KS-1-26-14	7/1/2014	7/31/2014	Prohibit use of bait in the sport fishery
2014	2-KS-1-27-14	7/10/2014	7/31/2014	Prohibit retention of Chinook Salmon in personal use fishery
2014	2-KS-1-40-14	7/19/2014	7/31/2014	Restrict sport fishery to unbaited single barbless hook, no retention
2014	2-KS-1-42-14	7/26/2014	7/31/2014	Close sport fishery
2015	2-KS-1-05-15	5/1/2015	7/31/2015	Close sport fishery for early-run
2015	2-KS-1-35-15	7/1/2015	7/31/2015	Prohibit use of bait in the sport fishery
2015	2-KS-1-46-15	7/25/2015	7/31/2015	Restore use of bait in sport fishery, no Chinook retention
2016	2-KS-1-03-16	5/1/2016	7/31/2016	Close sport fishery for early-run
2016	2-KS-1-19-16	6/18/2016	6/30/2016	Allow harvest in sport fishery from mouth of river to Slikok Creek
2016	2-KS-1-24-16	7/1/2016	7/31/2016	Prohibit use of bait in the sport fishery
2016	2-KS-1-28-16	7/1/2016	7/31/2016	Maintain bait prohibition in the sport fishery
2016	2-KS-1-33-16	7/9/2016	7/31/2016	Restore use of bait in the sport fishery

Federal Subsistence Fisheries Regulations in the Cook Inlet Area

In 2002, Federal subsistence regulations for harvest in the Cook Inlet Area were established for salmon, trout, and Dolly Varden. A Federal subsistence permit was required and seasons, harvest and possession limits, and methods and means for take were the same as those in Alaska sport fishing regulations. This fishery was established as an interim measure to provide some subsistence opportunity in the Cook Inlet Area for Federally qualified rural residents. Initially, there were no customary and traditional use determinations for salmon, trout and Dolly Varden in Cook Inlet; so all rural residents of Alaska could harvest under Federal regulations.

In January 2006, the Federal Subsistence Board made customary and traditional use determinations for Hope and Cooper Landing residents for all fish in the Kenai River Area, and for Ninilchik residents for all fish within the Kasilof River drainage within the Kenai National Wildlife Refuge. In November 2010, the Board made a customary and traditional use determination for Ninilchik residents for all fish in the Kenai River Area within the Kenai National Wildlife Refuge and the Chugach National Forest.

For the 2007 regulatory cycle, two additional steps were included in the usual analysis and review process for regulatory proposals; 1) the formation of a stakeholder subcommittee of the Council, which met twice in Soldotna in February 2007, to review the analyses and suggest changes, and 2) a review by the NTC, the proponent of some of the proposals, to assess, and provide feedback on, the changes suggested by the subcommittee, and to suggest other changes. Both of these steps took place prior to the Council's March 2007 meeting. Several suggested changes which resulted from these extra steps, were incorporated into the analyses as modifications to the proposed regulations and presented to the Council and, ultimately, the Board (OSM 2007).

At the time, the Board typically held public meetings twice a year to make decisions on proposals to change Federal subsistence regulations throughout the State; once in the Spring (April or May) for wildlife regulations and once in the Winter (December or January) for fisheries proposals. In May 2007, the Board held a third public meeting solely to hear public testimony on, deliberate and make decisions for the Kenai Peninsula fisheries proposals of the 2007 regulatory cycle. The meeting lasted three days (FSB 2007a).

During its May 2007 meeting, the Board adopted proposals that established dip net/rod and reel salmon fisheries on the Kasilof and Kenai Rivers; increased previously established harvest, possession, and annual limits for salmon and selected resident species for existing rod and reel fisheries on the Kasilof and Kenai River drainages; and allowed use of up to two single or treble hooks and bait for rod and reel fishing during specified dates for both systems. Sockeye Salmon annual harvest limits were set at 4,000 fish, with an annual household limit of 25 for each permit holder, and an additional 5 for each household member; late-run Chinook Salmon annual harvest limits were set at 1,000 fish, with an annual household limit of 10 for each permit holder, and an additional 2 fish per each household member; Coho Salmon annual harvest limits were set at 3,000 fish, with an additional household limit of 20 for each permit holder, with an additional 5 fish for each household member; and Pink Salmon annual harvest limits were set at 2,000 fish, with an annual household limit of 15 for each permit holder, and an additional 5 per each household member. Any Rainbow Trout or Dolly Varden 18 inches or greater in length were required to be released alive.

Additionally, during the 2007 regulatory cycle, there were several proposals that included requests for the use of gillnets in the Kenai River drainage. These included Proposals FP07-27B and C (by NTC) and FP07-29 (by Mr. Robert Gibson of Cooper Landing). FP07-27B and C requested a community set gillnet fishery for Chinook, Sockeye, and Pink Salmon in the Kasilof and Kenai Rivers and a community set gillnet fishery for Coho Salmon in the Kenai River. FP07-29 requested that gillnets with different mesh sizes be used to harvest Sockeye Salmon, Coho Salmon, Pink Salmon, Rainbow Trout, Dolly Varden, Lake Trout, and whitefish species in several lakes in the Kenai River drainage. The recommendation of the Council was to move forward with only the dip net and rod and reel salmon fisheries described above. Justification

for this recommendation was that a dip net fishery at Moose Range Meadows provides additional subsistence opportunity and that limiting this fishery to dip nets from boats addresses habitat and private property concerns in this area. The Council also stated that allowing incidental harvest of Rainbow Trout and Dolly Varden/Arctic Char less than 18 inches in dip net fisheries below Skilak Lake is consistent with conservation practices and provides a reasonable alternative to expanded harvest opportunity in the rod and reel fishery. Lastly, the Council stated that providing up to two baited hooks in the rod and reel fishery below Skilak Lake from January 1 to August 31 provides an additional opportunity for Chinook and Coho Salmon, and is consistent with conservation practices for these species.

During the 2008 regulatory cycle, the NTC submitted Proposal FP08-08 to allow the salmon dip net fishery to occur from the shore (river bank), as well as from boats, within the Federal public waters of the Kenai River in the Moose Range Meadows area. The Council voted 5-4 to support the proposal, after a lengthy discussion during its fall 2007 meeting. The Council decided that allowing subsistence dip net fishing from shore as well as from a boat would provide more of a subsistence preference in this area of the Kenai River. The Council also stated that limiting the dip net fishery at Moose Range Meadows to boats would limit participation by Federally qualified subsistence users without access to a boat and that while there are habitat and private property concerns in the area, it should be possible to allow some subsistence fishing from shore on Federal public lands that can be accessed without the use of a boat. During the Board's December 2007 meeting, some Board members expressed concerns about allowing dip netting from the shore because this area is prime Chinook Salmon rearing habitat with bank closures in place for habitat protection, that the area was not a safe place to use dip nets, and that opening the area to fishing from the shore would not be consistent with recognized principles of fish and wildlife management. Other Board members pointed out that adoption of the proposal would provide a "meaningful subsistence preference". A motion was put forth to support Proposal FP08-08. The motion failed on a three/three tie vote (FSB 2007b).

Also during the 2008 cycle, the Council submitted Proposal FP08-09 to establish a temporary community fish wheel on both the Kenai and Kasilof Rivers for residents of Ninilchik, Hope, and Cooper Landing. The Council contended that the fish wheels would provide a more effective means for Federally qualified subsistence users to harvest salmon. The Council requested the establishment of fish wheels as a gear type be temporary to evaluate the feasibility of operating this type of gear. The Board, at its December 2007 meeting, adopted the proposal, with modification, to allow fish wheels to be classified as a gear type, but only in the Kasilof River. The Board felt that there were too many logistical issues to be dealt with on the Kenai River, especially with three communities having the possibility of running a single fish wheel. The Board specified that only one fish wheel with a live box would be allowed in the upper mainstem of the Kasilof River. A permit would be required to use the fish wheel and that an operational plan must be submitted to and approved by the Federal in-season manager, before the permit would be awarded. Individuals operating the fish wheel would need to have a Federal subsistence fishing permit and all harvest limits on the permit would apply to the fish wheel. Salmon harvested by the fish wheel were included as part of each household's annual limit and all fish harvested were to be reported to the in-season manager with 72 hours of leaving the fishing location. The Board, at its January 2013 meeting, supported FP13-15 to remove the expiration date for the community fish wheel salmon fishery on the Kasilof River allowing continued operation of the fish wheel (FSB 2013).

For the 2009 regulatory cycle, the NTC submitted Proposal FP09-08, again requesting the Board to allow the salmon dip net fishery to occur from the shore (river bank), as well as from boats, within the Federal public waters of the Kenai River in the Moose Range Meadows area. Proposal FP09-08 was put on the Board's consensus agenda due to opposition of the proposal by both the Council and the Alaska Department of Fish and Game (ADF&G). The Council's stated reason for opposing FP09-08 was that "no Federal lands are available to allow fishing from the shore without serious damage to the river bank." The Board adopted the consensus agenda without discussion. As a result, Proposal FP09-08 failed (FSB 2009).

For the 2015 regulatory cycle, Proposal FP15-10 was submitted by NTC to establish a community gillnet fishery in the Kenai River in order to provide additional subsistence harvest opportunities for residents of Ninilchik. The proponent requested the use of a single community gillnet that was 10 fathoms or less in length for the harvest of salmon. Similar to the fish wheel regulations, an operational plan would be required to be developed by a local organization on behalf of Ninilchik residents, and approved by the Federal in-season manager before a fishing permit would be authorized. The operational plan would include deployment locations, fishing times, and a methodology for distributing the harvest. All salmon taken in the Kenai River community gillnet fishery would be included as part of the existing annual households' limit for Ninilchik residents, and fishing for salmon would be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species was reached or for other reasons as required. Proposal FP15-10 was adopted at the Board's January 2015 public meeting (FSB 2015).

From 2010 to 2015, numerous Federal special actions were put in place to protect Chinook Salmon in the Kenai River due to conservation concerns (**Table 3**). There were no Federal special actions issued in 2016 related to Chinook Salmon conservation in the Kenai River.

Table 3. Federal special actions for Chinook Salmon in Federal public waters of the Kenai River drainage between 2010 and 2016.

Year	Number	Start Date	End Date	Action
2010	10-KS-01-10	6/4/2010	7/14/2010	Close to subsistence fishing for early-run
2010	10-KS-02-10	6/15/2010	7/14/2010	Reopen under restricted subsistence harvest guidelines for early-run
2010	10-KS-03-10	6/15/2010	8/31/2010	Open to subsistence fishing under normal regulations
2011	10-KS-02-11	7/15/2011	7/31/2011	Restrict harvest of early-run
2012	10-KS-01-12	6/15/2012	7/14/2012	Restrict harvest of early-run
2012	10-KS-02-12	6/22/2012	7/14/2012	Close to subsistence fishing for early-run
2012	10-KS-03-12	7/16/2012	7/31/2012	Close to subsistence fishing for late-run
2013	10-KS-02-13	6/20/2013	7/14/2013	Close to subsistence fishing for Chinook Salmon
2013	10-KS-03-13	7/15/2013	8/15/2013	Extend closure of subsistence fishing for Chinook Salmon
2014	10-KS-01-14	6/19/2014	7/14/2014	Close to subsistence fishing for Chinook Salmon
2014	10-KS-02-14	7/15/2014	8/17/2014	Extend closure of subsistence fishing for Chinook Salmon
2015	10-KS-01-15	6/18/2015	8/15/2015	Close to subsistence fishing for early-run

Current Events

There is been a substantial amount of activity related to subsistence fisheries on the Kenai River since January 2015. This includes submission of over 700 Requests for Reconsiderations (RFR) to the Board, proposals to rescind the community gillnet regulations (FP17-06 & 07), a proposal to alter the community

gillnet regulations (FP17-10), litigation related to USFWS rejection of NTC submitted operational plans for the fishery, Emergency Special Action FSA16-02 that temporarily removed regulatory conflicts that had previously prevented the community gillnet fishery from operating in 2016, and this proposal.

The more than 700 RFRs submitted request that the Board reverse its decision and rescind regulations generated as a result of adopting FP15-10. This is the largest number of RFRs received by the Federal Subsistence Management Program to date in response to any regulatory proposal adopted by the Board. Two of the groups that filed RFRs also submitted proposals for the 2017 -2019 Fisheries Regulations requesting that the Board rescind the regulations generated by FP15-10. The proponents of regulatory proposal FP17-06 are Federally qualified subsistence users from two of the three communities that have a Customary and Traditional Use Determination for fish in the Kenai River (Hope and Cooper Landing). Proposal FP17-07 was jointly submitted by the Assistant Regional Director for Fisheries and Ecological Services, and the Regional Chief of Refuges, U.S. Fish and Wildlife Service, Region 7, Alaska. To date, no decision has been made on the RFRs.

In October 2015, NTC filed a lawsuit against the Federal Subsistence Board for its failure to override the USFWS decision to not approve an operational plan for the community gillnet on the Kenai River in 2015. The regulation adopted by the Board at its January 2015 meeting required NTC to submit an operational plan (to be approved by the Federal in-season manager) to address conservation concerns raised by biologists in their opposition to Proposal FP15-10. NTC's plan in 2015 was not considered because river closures were in place. Immediately before the Board's July 2015 work session, NTC submitted an emergency special action request asking the Board to override the Federal in-season manager's decision. The Board elected to not grant the request. Following this decision, NTC filed suit. *Ninilchik Traditional Council v. Towarak et al.,* Case No. 3:15-cv-0205 JWS (D. Alaska).

On June 28, 2016, the NTC submitted a Special Action Request (FSA 16-02) to the Board to implement the subsistence gillnet fishery for the Kenai River. On July 14, 2016, NTC amended FSA 16-02 to reflect that portions of the initial request were no longer valid due to the passage of time.

On July 27, 2016, the Board approved Emergency Special Action Request FSA16-02 with modification, providing for the implementation of an experimental Kenai River community gillnet fishery for residents of Ninilchik. The Board designated this fishery as experimental to see if a set gillnet could be used in certain locations on the Kenai River with minimal impact to Chinook Salmon, Rainbow Trout and Dolly Varden. The Board stipulated that the fishery would be conducted in the Moose Range Meadows area of the Kenai National Wildlife Refuge, with a gillnet up to 10 fathom (60') in length with 5 ¼" mesh, anchored to the bank. The fishery allowed for the retention of up to 50 Chinook Salmon, all other salmon within current Federal household and annual total limits, and any incidentally caught Rainbow Trout and Dolly Varden. Genetic samples were to be collected from all Chinook Salmon. The State bank closures, as adopted into Federal subsistence regulations, were temporarily removed to allow for the Kenai River community gillnet fishery; however, Kenai National Wildlife Refuge regulations at 50 CFR 36.39(i) remained in effect and prohibited access within an area 25 feet upland of ordinary high water on either shore of the Kenai River between RM 25.1 and RM 28.1.

At the conclusion of the 2016 Kenai River experimental community gillnet fishery on August 15, the Kenai River community gillnet fishery had caught 755 Sockeye Salmon, 7 Pink Salmon, 1 Chinook Salmon, 12 Coho Salmon and 2 Dolly Varden, while harvesting 723 Sockeye Salmon, 6 Pink Salmon, 1 Chinook Salmon, and 12 Coho Salmon. Twenty-nine Sockeye Salmon, 1 Pink Salmon, and 2 Dolly Varden were released. No Rainbow Trout or Steelhead were caught, harvested, or released during the experimental community gillnet fishery.

A draft operational plan for the 2017 community gillnet fishery was submitted by NTC on September 12, 2016.

Biological Background and Harvest History

All Pacific salmon species spawn within the Kenai River drainage, and the runs are harvested in State commercial, sport, personal use, and educational fisheries, as well as Federal subsistence fisheries. Federal subsistence harvest history will be discussed after the description of State harvest under these various State run fisheries. The State's Upper Cook Inlet Salmon Management Plan (5 AAC 21.363) establishes long-term direction for the management of Upper Cook Inlet salmon stocks. It provides mandatory criteria that the Alaska Board of Fisheries must consider when adopting management plans for specific fish stocks, and establishes a set of guiding principles for the adoption of regulations governing salmon fisheries. The plan focuses the commercial fisheries take on late-run Sockeye Salmon, while early-run Sockeye, early- and late-run Chinook, and Coho Salmon runs are primarily managed for sport fisheries. Considerable information has been compiled on abundance and distribution of Sockeye, Chinook, and Coho Salmon runs, but little information is available on either Pink or Chum Salmon runs. Spawning escapement goals have been set for Sockeye and Chinook Salmon runs, and sustainable harvest levels have been estimated for Sockeye, Chinook, and Coho Salmon.

<u>Early-Run Sockeye Salmon</u>

Most early-run Sockeye Salmon spawn within the Russian River. The State's Russian River Sockeye Salmon Management Plan (5 AAC 57.150) establishes escapement objectives and provides guidelines for the State management of State fisheries harvesting this run. The primary harvest of this run occurs within the sport fishery, and the State manages other fisheries to minimize the harvest of early run sockeye. The biological escapement goal range set by this plan is 22,000 to 42,000 early-run Sockeye Salmon.

Sport fishing for early-run Sockeye Salmon primarily occurs within the Russian River area. This fishery includes the lower Russian River up to a marker 600 yards below Russian River Falls, and the mainstem Kenai River from the confluence down to the power line crossing. The allowable gear in this fishery is restricted to fly fishing only, and the fishery opens June 11 at the conclusion of the spawning season closure for Rainbow Trout. Bag and possession limits for Sockeye Salmon throughout the Kenai River drainage are 3 per day and 6 in possession. Sport fishery harvests of early-run Russian River Sockeye Salmon during 2003–2012, the most recent 10-year period for which data are available, have ranged from 15,231 to 59,097 fish with an average harvest of 34,375 fish (Begich et. al. 2013). On average, the sport fishery harvested about 46% of the early-run that enters the Russian River area during this period.

The Kenaitze Indian Tribe educational fishery currently consists of one set gillnet that is fished May 1 – June 30 in marine waters just south of the Kenai River mouth, and two set gillnets that are fished July 1– November 30 in marine waters just south of Kenai River mouth. The net can be fished from 1 May through 30 November, and there is an annual harvest limit of 10,000 salmon, as well as species and stock restrictions. Annual harvests of early-run Russian River Sockeye Salmon during 2004–2013, the most recent 10-year period, have ranged from 275 to 2,374 Sockeye Salmon, with an average of 1,405 (Begich et. al. 2013).

Escapement into the Russian River system is estimated using a weir below the outlet of Upper Russian Lake. Early-run Sockeye Salmon enter the Kenai River from about mid-May through mid-July. During 2004–2013, spawning escapements have ranged from 24,115 to 80,524 Sockeye Salmon, with an average escapement of 41,656 (Begich et. al. 2013).

Late-Run Sockeye Salmon

Late-run Sockeye Salmon is the most intensively managed and utilized Kenai River salmon resource. The State's Kenai River Late-run Sockeye Salmon Management Plan (5 AAC 21.360) and Russian River Sockeye Salmon Management Plan (5 AAC 57.150) establish escapement objectives and provides guidelines for the management of all fisheries harvesting the late run. The optimum escapement goal range for the total drainage, including the Russian River system, is set at 700,000 to 1,400,000 late-run Sockeye Salmon, which is estimated with sonar equipment installed in the lower Kenai River. The sustainable escapement goal range for the Russian River is set at 30,000–110,000 late-run Sockeye Salmon, which is monitored with a weir. While primary harvest of the late-run occurs within the commercial fishery, the State manages the commercial fishery to provide for harvests within other fisheries as well as to achieve spawning goals.

The harvest of late-run Sockeye Salmon is monitored in all existing commercial, personal use, sport, and educational fisheries (Begich et. al. 2013). Commercial fisheries are conducted in the marine waters of Cook Inlet using both drift and set gillnets. During 2003–2012, the commercial harvest of Kenai River bound Sockeye Salmon has ranged from 204,579 to 5,277,995 late-run Sockeye Salmon, with an average of 3,445,684. About half of the commercial harvest is generally taken within a few days centered on July 20.

A personal use dip net fishery occurs at the mouth of the Kenai River and extends upstream as far as the Warren Ames Bridge. Dip nets can be fished from boats in the section of river from the City Dock upstream to the Warren Ames Bridge. To target effort on late-run Sockeye Salmon, and reduce harvests of late-run Chinook Salmon and Coho Salmon, this dip net fishery is only open July 10–31. All Alaska residents may participate, permits are required, and the annual household limit is 25 salmon for the permit holder and 10 additional salmon for each household member. From 2009 to 2013, about 25,000 to 30,000 household days of effort are for all fisheries each year. Annual late-run Sockeye Salmon harvests have ranged from 127,630 to 537,765 fish during 2004–2012, with an annual average of 333,960. The three communities of Cooper Landing, Hope, and Ninilchik all participate in the State personal use fisheries. From 2010 to 2013, the average number of households with a personal use fishery permit was 22 for Cooper Landing, 16 for Hope, and 166 for Ninilchik. The average number of Sockeye harvested in each community during this time was 272 fish for Cooper Landing, 285 fish for Hope, and 2,876 fish for Ninilchik (**Tables 4** and **5**).

The Kenaitze Indian Tribe educational fishery annual harvests have ranged from 2,246 to 5,278 late-run Sockeye Salmon during 2004– 2013, with an annual average of 3,505 fish. Sport fishery bag and possession limits for late-run Sockeye Salmon are initially 3 per day and 6 in possession, but are liberalized per the allocative management plans based on return abundance. Total sport fish harvests have ranged from 203,602 to 470,547 late-run Sockeye Salmon during 2003–2012, with an annual average of 320,122 fish. For the Russian River component, sport harvests have ranged from 9,331 to 33,935 late-run Sockeye Salmon during this time period, with an average of 21,200 fish.

The late-run Sockeye Salmon enter the Kenai River from about early July through mid-August. The total drainage spawning escapement has ranged from 703,979 to 1,876,180 late-run Sockeye Salmon during 2003–2012, with an average of 1,258,861 fish (Begich et. al. 2013). The late-run Sockeye Salmon spawn throughout the drainage, with 35-42 percent spawning within the mainstem Kenai River above Skilak Lake, 10-20 percent spawning within the mainstem Kenai River at the outlet of Skilak Lake, 11-21 percent spawning in the upper tributaries of the watershed, and 7-11 percent spawning in Skilak Lake and its tributaries (Willette et al. 2012).The Russian River spawning escapement has ranged from 31,364 to 110,244 late-run Sockeye Salmon during 2004–2013, with an average of 60,520 fish.

Table 4. Personal Use Fisheries Harvest for Kasilof River set net fishery, Kasilof River dip net fishery, Kenai River dip net fishery, Fish Creek (Knik Arm) dip net fishery from 2010 to 2013 for residents of Cooper Landing, Hope, and Ninilchik (Fall et al. 2013a&b)

	Cooper Landing (Pop. 289) (161 households)			Hope (Pop. 210) (107 households)			Ninilchik (Pop. 1,476) (682 households)		
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook
2010	235	1	2	245	1	0	3,000	10	10
2011	361	2	2	306	1	0	3,316	8	10
2012	283	0	0	277	1	0	2,968	7	0
2013	206	1	0	312	1	0	2,222	13	0
TOTAL	1,087	4	4	1,140	4	0	11,506	38	20
AVG	272	1	1	285	1	0	2,876	9.5	5
Per household Average	1.6			2.7			4.2		

Table 5. Personal Use Fisheries Sockeye Salmon Harvest, Number of Permits, Sockeye per Permit, Households, and Population Numbers for Kasilof River set net fishery, Kasilof River dip net fishery, Kenai River dip net fishery, Fish Creek (Knik Arm) dip net fishery from 2010 to 2013 for residents of Cooper Landing, Hope, and Ninilchik (Fall et al. 2013a&b).

	Cooper Landing (Pop. 289) (161 households)			Hope (Pop. 210) (107 households)			Ninilchik (Pop. 1,476) (682 households)		
Year	Permits	Sockeye	Sockeye per Permit	Permits	Sockeye	Sockeye per Permit	Permits	Sockeye	Sockeye per Permit
2010	26	235	9	14	245	17	168	3,000	18
2011	19	361	19	17	306	18	183	3,316	18
2012	30	283	9	13	277	21	163	2,968	18
2013	14	206	15	19	312	16	151	2,222	15
TOTAL	89	1,087	52	63	1,140	72	665	11,506	69
AVG	22	272	13	16	285	18	166	2,876	17

Chinook Salmon

A series of radio-telemetry studies and in-river abundance estimation techniques have identified differential run times and spawning distributions for Chinook Salmon returning to the Kenai River. Indices of run strength for Chinook Salmon entry times into the Kenai River indicate a bimodal distribution with the early component of the run peaking between 8 and 20 June and a later component peaking between 17 and 25 July (Hammarstrom and Larson 1986; Conrad and Larson 1987; Conrad 1988; Carlon and Alexandersdottir 1989; Alexandersdottir and Marsh 1990; Miller et al. 2011; Reimer 2013). Chinook Salmon entering the Kenai River during July and August are considered "late-run" fish and almost exclusively spawn during August and early September in the main-stem Kenai River (Burger et al.1985; Bendock and Alexandersdottir 1991, 1992; Reimer 2013). Each run, early and late, are managed independently primarily because of differences in run size, run timing, and spatial distribution of spawning fish.

Chinook Salmon abundance in the Kenai River and throughout Alaska has been decreasing since around 2007 (ADF&G Chinook Salmon Research Team 2013). Some stocks are also exhibiting declining trends in size and age, including Kenai River Chinook Salmon that spawn on the Kenai National Wildlife Refuge, either in tributary streams (Boersma and Gates 2016) or the main-stem Kenai River (Lewis et al. 2015). Several potential, but as yet unproven, causal factors for this downward trend in abundance, include: size-selective harvest, competitive interactions, and changing environmental conditions (Lewis et al. 2015). Mainstem spawning areas were identified between RM 13 and RM 80, with higher spawning densities document between RMs 14 – 15, 17 – 21, and 46 – 47, and with the section between RM 46 and 47 shown to support the highest number of spawners (Reimer 2013). Of the 50 river miles in the drainage available for sport fishing for Chinook Salmon (all below Skilak Lake), only about 5 miles are within Federal public waters (RM 48 – 45.5 and RM 29 – 26.5).

Early-Run Chinook Salmon

Early-run Chinook Salmon enter the Kenai River from about mid-May through late-June. Most early-run Chinook Salmon spawn in Kenai River tributaries below the outlet of Skilak Lake, and most of these spawners are bound for the Killey and Funny Rivers. In general, about 80% of the early-run Chinook Salmon spawn in either the Funny or the Killey Rivers, while only about 7% of all early-run Chinook Salmon spawn in tributaries above Skilak Lake (Bendock and Alexandersdottir 1992, Burger et al. 1983). In the mainstem Kenai River, staging behavior (preparing for spawning) generally runs from early- to mid-July with most spawning occurring from mid-July through August. During this time, a small segment (7% – 20%) of early run Chinook Salmon also utilize the main stem Kenai River to spawn (Bendock and Alexandersdottir 1992, Burger et al. 1983). For Chinook Salmon, the stretch of river encompassing river miles 46 and 47 on the Kenai National Wildlife Refuge represents some of the highest densities of spawners in the entire watershed (Reimer 2013).

The State's optimal escapement goal (OEG)[1] range for early-run Chinook Salmon is 5,300 to 9,000 fish for the Kenai River system. Escapement is monitored by sonar at RM 14 between mid-May and mid-August. Additionally, a gillnet at RM 9 is used to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a). The spawning escapement for the years 2006 – 2015 averaged 7,473 fish, with a range of 4,460 fish in 2013 to 13,282 in 2006. The spawning escapement in 2014 was 5,776 fish and in 2015 was 6,190 fish (ADF&G 2016b).

The State's Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan (5 AAC 57.160) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. This plan also tries to ensure that the age and size composition of the harvest closely approximates that of the run. The primary harvest of this run occurs within the sport fishery. Most of the sport harvest is taken within the Kenai River, although the Deep Creek marine sport fishery takes an undetermined, but likely small number, of Kenai River early-run Chinook Salmon based on tag recoveries (King and Breakfield, 2002). The State manages other fisheries to minimize the harvest of this run. The commercial and personal use fisheries open after most early-run Chinook Salmon have entered the Kenai River, and the personal use fishery has a seasonal limit of 1 Chinook Salmon per household. The Kenaitze Indian Tribe's educational fishery has historically had a seasonal limit of 300 Chinook Salmon, but in 2014 the limit was decreased to 50 Chinook salmon to conserve returning fish.

The early-run Chinook Salmon OEG range mentioned above is set by this plan. To determine whether or not the escapement goal will or will not be achieved, daily sonar estimates of Chinook Salmon passing the sonar site (at RM 14) and estimates of the sport harvest from creel surveys are utilized in a run timing model to project total in-river return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the OEG range, the fishery is incrementally restricted to catch-and-release only and ultimately to closure, if necessary. Bait cannot be used until escapement is projected to fall within the OEG

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

range. To help prevent the harvest of 5-ocean fish[2], there is a slot limit that specifies the size of Chinook Salmon that may be retained (less than 42 inches in length or greater than 55 inches in length). The slot limit is in effect from 1 January to 30 June from the Kenai River mouth upstream to the outlet of Skilak Lake, and from 1 to 14 July from the Slikok Creek upstream to the outlet of Skilak Lake.

All sport fishing for early-run Chinook Salmon in the Kenai River occurs below Skilak Lake. The bag and possession limit is 1 Chinook Salmon per day and 1 in possession. Additionally, there is an annual limit of 2 Chinook Salmon from the Kenai River. Only Chinook Salmon less than 42 inches or greater than 55 inches can be retained in the sport fishery. Sport fishery harvests of early-run Kenai River Chinook Salmon during 2004-2013 have ranged from 0 to 4,693, with an average of 2,334 (Begich et al. 2013). The Kenaitze Indian Tribe's educational fishery harvest has ranged from 11 to 76 early-run Chinook Salmon during 2004–2013, with an average of 42 fish (Begich et al. 2013). No estimates of the number of early-run Kenai River Chinook salmon harvested in commercial or personal use fisheries are available, but due to the timing of these fisheries these harvests are assumed to be negligible.

Late-Run Chinook Salmon

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

The sustainable escapement goal (SEG)[3] range for late-run Chinook Salmon is 17,800 to 37,500 fish. As with the early run, escapement is monitored by sonar at RM 14 between mid-May and mid-August. Additionally, a gillnet at RM 9 is used to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a). The spawning escapement for the years 2006 – 2015 averaged 26,613 fish with a range of 16,527 fish in 2010 to 48,950 in 2006. The spawning escapement in 2014 was 17,446 fish and in 2015 was 22,654 fish (ADF&G 2016b).

The State's Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. While this run is primarily managed for use by the sport fishery, the incidental harvest in commercial fisheries is substantial.

[2] 5-ocean fish have spent five years in the ocean before returning to their natal streams to spawn.

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

Most of the sport harvest is taken below the Soldotna Bridge within the Kenai River, although some are taken in marine waters in the Deep Creek sport fishery. The bag and possession limit is 1 Chinook Salmon per day and 1 in possession. Additionally, there is an annual limit of 2 Chinook Salmon from the Kenai River. Most of the commercial harvest is taken in the East Side set gillnet fishery. The personal use fishery has a seasonal limit of 1 Chinook Salmon per household, and the Kenaitze Tribe's educational fishery had a seasonal limit of 50 Chinook Salmon in 2014. To determine whether or not the escapement goal will or will not be achieved, daily sonar estimates of Chinook Salmon passing the sonar site and estimates of the sport harvest from creel surveys are utilized in a run timing model to project total in-river return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the SEG range, the fishery is restricted by several steps, including prohibiting use of bait, to catch-and-release only with barbless hooks, and ultimately to closure, if necessary.

The harvest of late-run Chinook Salmon is monitored in the commercial, personal use, sport, and educational fisheries (Begich et al. 2013). Commercial fishery harvests during 2004–2013 have ranged from 640 to 16,925 Kenai River late-run Chinook Salmon, with an average of 7,380 fish. Harvests in the Deep Creek marine sport fishery have ranged from 30 to 996 Kenai River late-run Chinook Salmon during 2003–2012, with an average of 446 fish. Sport fishery harvests in the Kenai River have ranged from 103 to 18,214 late-run Chinook Salmon during 2003-2012, with an average of 9,926. Personal use dip net fishery harvests have ranged from 11 to 1,509 late-run Chinook Salmon during 2004–2013, with an average of 904 fish. Kenaitze Tribe's educational fishery harvests have ranged from 0 to 21 late-run Chinook salmon during 2004–2013, with an average of 9 fish.

Coho Salmon

Coho Salmon are the last of the salmon species to enter the Kenai River each year. The majority of the run enters the Kenai River from late-July through mid-September, but continues at lower rates into November (Begich et al. 2013). Burger et al. (1983) found that Coho Salmon spawned in the mainstem Kenai River, as well as tributaries, with mainstem spawning observed as late as January. Spawning was documented from RM40 upstream to RM74.5, and large numbers of spawning Coho Salmon were observed below Skilak Lake (RM 40 – RM50).

The State manages Kenai River Coho Salmon primarily for take in sport fisheries, and the Kenai River Coho Salmon Management Plan (5 AAC 57.170) establishes management actions and guidelines for sport harvest. There are no escapement goals for Kenai River Coho Salmon. Although genetic studies have shown differences between and within early and late returning spawning components (Olsen et al. 2003, Crane et al. 2007), the entire run is currently managed as a single stock by the State.

The harvest of Coho Salmon is monitored in all existing commercial, personal use, sport, and educational fisheries, but stock specific information for commercial fisheries, based on coded-wire tag returns, is only available through 2003 (Lafferty et al. 2005). While total harvests of Coho Salmon in Upper Cook Inlet commercial fisheries are generally several hundreds of thousands each year, harvest of Kenai River Coho Salmon are only a small component of the total. Commercial fishery harvest has ranged from 95,215 to 311,058 Coho Salmon during 2004-2013, with an average of 172,716 fish. Total sport fishery harvests

have ranged from 36,407 to 65,952 Coho Salmon during 2003-2012, with an average of 47,371 fish. There is no estimate of catch-and-release mortality for this sport fishery.

Rainbow Trout

The Kenai River also supports one of the largest Rainbow Trout sport fisheries in the United States, with annual catches that have been trending upward since the 1980's (Begich et al. 2013). Increasingly restrictive regulations were adopted for this fishery since the 1950's due to public concern and an initial lack of biological data. ADF&G began population estimation projects in 1986 using mark-recapture methods, and have repeated estimation projects multiple times since then. Estimations between 1986 and 2009 have shown increases in the size of the Rainbow Trout population as further restrictions have been enacted on the fishery. The State sport fishery is closed from May 1 through June 11 to protect Rainbow Trout during their spawning period. Radio telemetry projects have found the majority of Rainbow Trout from the area of the Kenai River drainage downstream of Skilak Lake spawn between RM 45.8 and RM 48 during that time period (Palmer 1998; Eskelin 2016, pers. comm.). Measurements of spawning Rainbow Trout in the Kenai River demonstrated that 95% of females 20 inches in length or larger are spawners, and that the minimum length at spawning is approximately 16 inches (OSM 2007).

Rainbow Trout abundance estimates have been generated several times for index sections of the Kenai River since the mid 1980's. Abundance estimates of fish over 200mm (~7.8 inches) in the upper Kenai River index area have taken place in 1986 (3,640 fish, SE 456), 1987 (4,950 fish, SE 376), 2001 (8,553 fish, SE 806), and 2009 (5,916 fish, SE 481; Begich et al. 2013). The upper Kenai River index area is the most heavily fished section of the upper Kenai River (King and Breakfield 2007), and is situated above Skilak Lake and below the Russian River between RM 69.7 and RM 73.2. Abundance estimates for fish of the same size in the middle Kenai River index area have taken place in 1987 (1,750 fish) and 1999 (7,883 fish). The middle Kenai River index area is the most heavily fished section of the river where regulations allow retention of Rainbow Trout (Larson and Hanson 2000), and is located above Naptowne Rapids and below Skilak Lake between approximately RM 38 and RM 50. There have been no drainage-wide estimates generated to date.

The catch and harvest of Rainbow Trout in the Kenai River are monitored through the Statewide Harvest Survey. Catches of Rainbow Trout in the Kenai River since 1984 have ranged between 8,720 and 202,875, with an average during 2008–2012 (most recent data published) of 189,400 fish (Begich et al. 2013). Harvests of Rainbow Trout, however, are substantially smaller and have ranged (since 1984) between 1,560 and 3,940, with an average during 2008–2012 of 2,470.

Dolly Varden

There are assumed to be both resident and anadromous forms of Dolly Varden in the Kenai River. Anadromous fish are believed to enter the Kenai River in July (Begich et al. 2013). Both forms move within the Kenai River drainage from summer feeding sites to spawning location by mid-to late September. Spawning occurs between mid-September and late October, after which these fish moved to overwintering locations (Palmer and King 2005). Outmigration from the drainage by anadromous fish occurs in April and May. Minimum length at spawning for this population is approximately 12 inches in length, and the

majority of females 18 inches or longer in length are spawners (OSM 2007). There are no Dolly Varden population estimates for the Kenai River.

The catch and harvest of Dolly Varden in the Kenai River are monitored through the Statewide Harvest Survey. Catches of Dolly Varden in the Kenai River since 1990 have ranged between 34,577 and 166,618, with an average during 2008–2012 (most recent data published) of 127,280 fish. Harvests of Dolly Varden are substantially smaller, and have ranged (since 1990) between 1,789 and 14,517, with an average during 2008–2012 of 2,680. Similar to the Rainbow Trout Fishery, the Dolly Varden sport fishery has experienced increasingly restrictive regulations over time (Begich et al. 2013).

Research Related to Gillnets on the Kenai River

Research related to the effects of gillnet in the Kenai River in a subsistence fishery setting is limited to the results of experimental community gillnet by Ninilchik residents in 2016, but other gillnets have been placed in the river during past research.

As stated in a previous section ADF&G has monitoring escapement projects on the Kenai River (via sonar) at RM 14 between mid-May and mid-August. A gillnet is used at RM 9 to provide the relative proportion of large Chinook Salmon, small Chinook Salmon, and Sockeye Salmon for apportionment of sonar counts (ADF&G 2016a).

From 1999 to 2003, ADF&G used a combination of fishing methods to recapture Coho Salmon in the Kenai River as a part of a mark-recapture study to estimate the abundance of adult Coho Salmon in the Kenai River (Carlon and Evans 2007). The recapture event primarily used a drift gillnet (4.75" mesh, 29 meshes deep, 5 fathoms in length), but, to a limited extent, supplemented the recapture catch with other methods including a set gillnets, fish wheels, hook-and-line, and seining. The drift gillnet specifications were intended to capture fish by entanglement rather than by wedging fish into a single mesh space permitting fish to be more easily removed upon capture and decreasing injury.

The recapture event of this study was conducted in two reaches on the Kenai River:

1.) In 1999 along the banks between Soldotna Bridge and the Funny River tributary confluence (RM 21.1 – RM 30.4). This reach encompasses Moose Range Meadows (RM 26.5 – RM 29)

2.) From 2000-2003, along the banks at the confluence of the Moose River tributary (RM 30.4 – RM 36.3)

In the 1999 recapture event, capture effort occurred daily between August 9 and October 8. During the 2000 to 2003 recapture events, capture efforts occurred daily during the following periods: August 1 through October 13, 2000; August 1 through October 5, 2001; August 2 through October 4, 2002; and August 1 through October 5, 2003.

The catch and effort results from the recapture event of this study is summarized below are summarized in **Table 6** and **Table 7** below.

It is important to note that this study did not follow mortality for species other than Coho Salmon. The study did occur in the area of Moose Range Meadows for one year (1999) and in the area above Moose Range Meadows from 2000-2003. The time period of sampling also did include times in which the experimental gillnet fishery was performed (early-mid August), but most of it occurred through late-August till early to mid-October. Methods did include the use of a drift and set gillnet with similar specifications to those used in the experimental gillnet fishery.

Table 6. Catches of species during the recapture events, 1999-2003 (Carlon and Evans 2007)

Species	1999	2000	2001	2002	2003
Coho Salmon	2,098	3,161	4,669	5,145	3,493
Sockeye Salmon	1,126	1,235	1,162	1,712	1,861
Chinook Salmon	263	318	395	393	828
Pink Salmon	27	9,299	8	14,354	4
Chum Salmon	0	0	0	1	0
Dolly Varden	179	206	241	442	248
Rainbow Trout	208	343	745	397	1,304
Steelhead	3	3	8	3	24
Whitefish species	5	1	1	3	1
Longnose Sucker	2	0	0	1	1

Table 7. Summary of effort in net hours by gear type during the recapture events, 1999-2003 (Carlon and Evans 2007)

Gear Type	1999	2000	2001	2002	2003
Drift Gillnet	255.0	253.8	305.1	206.0	322.5
Set Gillnet	0.0	69.5	43.9	0.2	0.5
Hook-and-Line	0	34	9	238	6
Fish Wheel	916	0	0	0	0
Beach Seine	0	0	0	82	0

Catch and Release Mortality

A number of studies have been conducted to examine unintended mortality in catch and release fisheries. Rates of unintended mortality from catch and release fishing vary across studies due to factors such as species, life stage, water temperature, and gear type. A literature review of 18 studies by Taylor and White (1992) found a 3.8 percent mortality rate associated with fly-fishing, a 4.9% rate associated with lures, and a 31.4% rate associated with bait. Another review of 7 studies by Schill and Scarpella (1997) found a 4.5% mean mortality rate for barbed hooks compared to 4.2% for barbless. Lindsay et al. 2004 found a 12.2% rate of mortality in Chinook Salmon in the lower Willamette River of Oregon, while Bendock and Alexandersdottir (1990) found rates of 13% for male and 7% for female Chinook Salmon in the Kenai River. DeCicco (1994) found rates below 2% for Dolly Varden from the Nome and Snake rivers of Northwest Alaska. Estimated catch and release mortality ranges for the early-run Chinook Salmon sports fishery in the Kenai River range from 0 to 257 fish (Begich et al 2013). Estimated catch and release mortality ranges for the late-run Chinook Salmon sports fishery in the Kenai River range from 79 to 1,267

fish, which equates to an average estimated mortality rate of around 1% of the in-river run total before sport fish harvest has been removed (Begich et al 2013). Although no estimates of catch and release mortality exist for Rainbow Trout, a recent stock assessment performed in the Kenai River drainage (Eskelin and Evans 2013) reported that over 92% of the Rainbow Trout were observed to have hooking injuries. The authors suggested that it was likely that the trout in some sections of the river are caught and released multiple times. No estimates of catch and release mortality exist for Dolly Varden.

Overall, some amount of mortality is a recognized consequence of catch and release fisheries, including those currently authorized in the Kenai River.

Gillnet Release Mortality

Research has also been conducted to examine the rates of mortality for a variety of fish caught and released from gill and tangle nets (WDFW 2014). The studies summarized in this literature review come from 13 papers based in a variety of locations ranging from Bristol Bay to Finland. The study sites were mainly concentrated in Washington or British Columbia, with only two sites in Alaska (Bristol Bay and Kodiak). The study years for these projects ranged from 1955 to 2007 (median ~ 2000) and a majority of them focus on salmonid species being captured and immediately released in estuarine locations. Variables considered in these studies included mesh size, fish size, soak time, water temperature, location type, maturity state, and migration duration. Those studies that focus on fish released from gillnets demonstrated a wide range of mortality. Immediate mortality rates ranged between 0.5% and 98% depending on the variables considered and within the context of the studies considered in the literature review. For example, the lowest mortality rate was for Chinook Salmon in the spring (cooler water) in a freshwater environment with a 5.5 inch mesh gillnet whereas the 98% mortality was in July (warmer water) in an estuary environment with an 8 inch mesh gillnet. Long-term mortality rates ranged between 2.3% and 60.6%, again depending on the variable and within the context of the studies considered in the literature review.

Overall, unintended mortality is a recognized consequence of releasing fish captured in gillnets.

Federal Subsistence Harvest

Rural residents of Cooper Landing, Hope and Ninilchik have harvested fish in the Kenai River drainage under Federal subsistence regulations since 2007. In addition to the rod and reel fishery in Federal waters of the Kenai River, there exist three areas in the Kenai River drainage in which Federally qualified subsistence users of Cooper Landing, Hope and Ninilchik may harvest salmon by dip net and rod and reel, as well as a separate community gillnet fishery for the residents of Ninilchik.

Russian River Falls

Cooper Landing and Hope residents have fished almost exclusively in the Russian River Falls area over the past nine years. Cooper Landing residents have reported a harvest of 8,609 Sockeye Salmon since 2007; 7,905 in the dip net fishery with an annual average of 878 fish, and 704 in the rod and reel fishery with an average of 89 fish (**Table 8**). Hope residents have reported a harvest of 2,357 Sockeye Salmon since 2007; 2,142 in the dip net fishery with an average of 238 fish, and 215 Sockeye Salmon in the dip net fishery with

an annual average of 24 fish (**Table 9**). Ninilchik residents have harvested in the Russian River Falls area to a much lesser extent. They have utilized the dip net fishery in six of the nine years that it has been a harvest option, with a reported harvest of 155 Sockeye Salmon, and an annual average of 26 fish over the six years. They have utilized the rod and reel fishery three of the nine years (2007–2009), with a reported harvest of 281 Sockeye Salmon; an average of 94 for the three years (**Table 10**). There has been no reported harvest of Chinook Salmon in the Russian River Falls area under Federal regulation.

Kenai River below Skilak Lake, RM 45.5 to RM 48

For the years 2007–2015, a total of 30 Sockeye Salmon have been reported as harvested in this area, all by Ninilchik residents using dip nets, and all in the year 2009 (**Table 10**). There has been no reported harvest by Cooper Landing and Hope residents in this area (**Tables 8 & 9**). There has been no reported harvest of Chinook Salmon in this area under Federal regulation.

Kenai River, Moose Range Meadows, RM 26.5 to RM 29

Cooper Landing residents reported harvesting 44 Sockeye Salmon in the rod and reel fishery for the years 2011–2015, but have not reported harvest of any fish in the dip net fishery for this area (**Table 8**). Hope residents have not reported harvest of any fish in either the dip net or the rod and reel fisheries in this area (**Table 9**). In 2007, Ninilchik residents reported a harvest of 12 Sockeye Salmon in the dip net fishery in this area. There has been no reported harvest in the dip net fishery since. In the rod and reel fishery, Ninilchik residents reported a total harvest of 741 Sockeye Salmon for the years 2008–2015, an annual average of 93 fish. They also reported harvesting 5 Coho Salmon in 2008 (**Table 10**).

In addition, an experimental community gillnet fishery for the residents of Ninilchik was approved by the Board under Emergency Special Action request (FSA16-02). At the conclusion of the 2016 fishery, on August 15, the Ninilchik community had caught 755 Sockeye Salmon, 7 Pink Salmon, 1 Chinook Salmon, 12 Coho Salmon and 2 Dolly Varden, while harvesting 723 Sockeye Salmon, 6 Pink Salmon, 1 Chinook Salmon, and 12 Coho Salmon. They released 29 Sockeye Salmon, 1 Pink Salmon, and 2 Dolly Varden. No Rainbow Trout or Steelhead were caught, harvested, or released during the experimental community gillnet fishery.

Table 8. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Cooper Landing Residents

Dip Net Fisheries

	Russian River Falls			Kenai River, RM 45.5 to 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	437	n/a	n/a	0	0	0	0	0	0	437
2008	960			0	0	0	0	0	0	960
2009	706			0	0	0	0	0	0	706
2010	622			0	0	0	0	0	0	622
2011	794			0	0	0	0	0	0	794
2012	998			0	0	0	0	0	0	998
2013	996			0	0	0	0	0	0	996
2014	1,216			0	0	0	0	0	0	1,216
2015	1,176			0	0	0	0	0	0	1,176
TOTAL	7,905									7,905
AVG	878									878

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	108	7					0	0	0	115
2009	46	9					0	0	0	55
2010	57	0					0	0	0	57
2011	46	0					6	0	0	52
2012	43	0					11	0	0	54
2013	49	4					12	0	0	61
2014	97	2					9	0	0	108
2015	89	0					6	0	0	95
TOTAL	704	27					44	0	0	771
AVG	78	3					5			86

Source: USFWS 2007 – 2015

Table 9. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Hope Residents

Dip Net Fisheries

	Russian River Falls			Kenai River, RM 45.5 to 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	85	n/a	n/a	0	0	0	0	0	0	85
2008	280			0	0	0	0	0	0	280
2009	103			0	0	0	0	0	0	103
2010	172			0	0	0	0	0	0	172
2011	159			0	0	0	0	0	0	159
2012	287			0	0	0	0	0	0	287
2013	252			0	0	0	0	0	0	252
2014	402			0	0	0	0	0	0	402
2015	402			0	0	0	0	0	0	402
TOTAL	2,142									2,142
AVG	238									238

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	6	0					0	0	0	6
2009	18	0					0	0	0	18
2010	0	0					0	0	0	0
2011	0	0					0	0	0	0
2012	0	0					0	0	0	0
2013	19	0					0	0	0	19
2014	3	0					0	0	0	3
2015	0	0					0	0	0	0
TOTAL	215	5								220
AVG	24	0.6								24

Source: USFWS 2007 – 2015

Table 10. Kenai River Federal Subsistence Salmon Harvest, 2007 – 2015, Ninilchik Residents

Dip Net Fisheries

	Russian River Falls			Kenai River, RM 45.5 to 48			Moose Range Meadows			
Year	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Sockeye	Coho	Chinook	Total
2007	5	n/a	n/a	0	0	0	12	0	0	17
2008	41			0	0	0	0	0	0	41
2009	0			30	0	0	0	0	0	30
2010	10			0	0	0	0	0	0	10
2011	0			0	0	0	0	0	0	0
2012	0			0	0	0	0	0	0	0
2013	19			0	0	0	0	0	0	19
2014	54			0	0	0	0	0	0	54
2015	26			0	0	0	0	0	0	26
TOTAL	155			30			12			197
AVG	17			3			1.3			22

Rod and Reel Fisheries

	Upper Kenai/Russian River						Moose Range Meadows			
Year	Sockeye	Coho	Chinook				Sockeye	Coho	Chinook	Total
2007	169	5	n/a				0	0	0	174
2008	11	0					202	5	0	218
2009	101	0					93	0	0	194
2010	0	0					42	0	0	42
2011	0	0					84	0	0	84
2012	0	0					75	0	0	75
2013	0	0					61	0	0	61
2014	0	0					115	0	0	115
2015	0	0					69	0	0	69
TOTAL	281	5					741	5		1,032
AVG	31	0.6					82	0.6		115

Source: USFWS 2007 – 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 are related to this period. Homesteading in the Homer region occurred from 1915 through 1940. With the construction of roads and local oil development after in the 1950s, the population of the Kenai Peninsula increased substantially through in-migration of people born outside Alaska.

From the early 1900s, the annual subsistence pattern of the *Dena'ina* included commercial fishing in the spring and summer at the mouth of the Kenai River before moving up-river in the fall to harvest Coho Salmon and freshwater fish, hunt moose, and trap furbearers. This cycle continued until the 1940s when the creation of the Kenai National Moose Range disrupted traditional harvest patterns. Despite new federal refuge enforcement efforts, many *Dena'ina* continued to access their Stepanka camps, long used settlements up the Kenai River near Skilak Lake (Fall et al. 2004:16–20).

Commercial and subsistence fishing were also an important aspect of the annual cycle of the Kenai Peninsula homesteaders. In freshwater, gillnets and seines were used in the Kenai, Skilak, and Tustumena Lakes to harvest lake trout, grayling, whitefish, and char. Trappers in the upper Kenai River area maintained gillnets and caught salmon and trout for personal use. Other uses mentioned were taking Coho Salmon through the ice in the winter and steelhead below Skilak Lake in the late 1940s and early 1950s (Fall et al. 2004:20-21). Andrew Berg, who lived from 1869 to 1939 and was a guide on the Kenai Peninsula, documented his use of subsistence resources including harvesting trout in Tustumena Lake and Dolly Varden, salmon, and whitefish at the mouth of Indian Creek (Cassidy and Titus 2003).

Subsistence fishing in the freshwaters of the Kenai Peninsula was prohibited from 1952 until the Federal Subsistence Board created a subsistence fishery in 2002 which mirrored the State sport fishing regulations. Since statehood, legal availability of fishery resources in Federal public waters has been defined by State sport fishing regulations, and these regulations do not provide for harvest of all species or harvest by traditional methods and means. In this area, preferred traditional methods and means include nets, an efficient method and means of harvest for subsistence users who traditionally harvest as much fish as they can process at once. Rod and reel is considered an authorized subsistence gear type under Federal subsistence regulations and under State regulations in some parts of the state. In some cases under State regulations, rod and reel has been recognized as traditional gear in places where fish fences or traps are no longer a legal means to harvest fish and rod and reel is the only legal alternative (Williams et al. 2005:31–32).

In 1952, gillnets were made illegal in many freshwaters, and the Kenai Peninsula *Dena'ina* ceased using gillnets during their fall occupation of their upriver harvest sites. The Stepanka fishery, that had been a traditional, long-standing source of salmon for the *Dena'ina* (Kenaitze) Indians, was closed. As a result of this closure, snagging became the primary harvest method until it was made illegal in 1973. Local residents turned to sport fishing without snagging, and continued to fish the beaches of Cook Inlet with gillnets in the State subsistence fishery. In the 1970s, sport fishing had grown in popularity and the Kenai had become a favorite spot for fishing and recreation. The Kenai Peninsula is unique in that rural communities are interspersed among much larger nonrural communities. By the early 1980s the Alaska Board of Fisheries added more restrictions on subsistence and personal use fishing along the Cook Inlet beaches, closing beaches to subsistence gillnetting. By the mid-1990s, only two personal use fisheries remained at the mouth of the Kenai and Kasilof rivers (Fall et al. 2004:22–23; 30).

Regulations relating to areas, seasons, and methods have changed consistently over the past 54 years, and have become more restrictive, requiring residents to take different approaches to obtaining subsistence resources. For example, in the case of salmon, as regulations and conditions have changed, residents have adapted their traditional practices to continue to obtain salmon—trade it, buy it, or harvest it in new ways under various regulatory regimes (Georgette 1983:186–187). In 1993, as the result of a lawsuit filed by the Kenaitze Tribe, a State judge ordered the development of educational fisheries for the NTC, the Knik Tribal Council, the Native Village of Eklutna and the Kenaitze Tribe (Loshbaugh 1993:1, 14). The educational fishery provided another means for residents to harvest salmon using gillnets. The educational permits, however, were a compromise: "Villagers—who have traditionally focused on early-run king salmon will be catching mostly reds under the proposed permit" (Loshbaugh 1993:14).

Additional Issues for Board Consideration

As currently written, Federal subsistence regulations for the Kenai and Kasilof rivers are confusing and at times contradictory. The Board may want to consider directing OSM to submit a regulatory proposal to review and revise the Cook Inlet subsistence fisheries regulatory section (§___.27(e)(10)(iv)) during the next fisheries regulatory cycle to clarify and simplify regulatory language in an effort to resolve unnecessary complexities and inconsistencies between the regulations for both rivers.

Additionally, it may be worth the Board's consideration to remove the annual total harvest limits for the Kenai dip net/rod and reel fishery. These limits have been the focus of much discussion lately, including in this proposal and the request for reconsideration submitted for the Kenai River community gillnet fishery. The limits were initially associated with a proposal by the NTC in 2007 for a set gillnet fishery in the Kasilof and Kenai rivers (FP07-27B). The proposed totals (1,000 Chinook Salmon, 4,000 Sockeye Salmon, and 2,000 Pink Salmon) were to be a set quantity that would be allowed for harvest in the gillnet fishery proposed in 2007 to span both river systems, and were not based on a biological analysis. During the 2007 Federal Board Meeting cycle for the Kenai Peninsula fisheries, the OSM used this and numerous other proposals to generate proposed area wide regulations. One of the outcomes of this process was to set annual total harvest limits for the Kenai dip net/rod and reel fishery using the proposed numbers from FP07-27B.

The current annual total harvest limits for the Kenai River dip net/rod and reel fishery exist in addition to the annual household limits that are in place for the same species, and create regulatory confusion and concern that all Federally qualified subsistence users will not be provided subsistence opportunity before annual total limits are achieved. For example, one of concerns expressed in opposition to the Kenai River community gillnet fishery is that the one authorized gillnet could potentially harvest the total Sockeye Salmon annual total limit (4,000) at the Moose Range Meadows area by residents of Ninilchik prior to the time of year that residents of Cooper Landing and Hope harvest Sockeye Salmon at their preferred location in the Russian River. Removal of this annual total harvest limit would alleviate this concern and would allow the fishery to continue to be managed by annual household limits. The Federal in-season manager would continue to open and close the fisheries by Federal special action, if necessary.

Effects of the Proposal

There are seven separate components to Fisheries Proposal FP17-10. All requested changes are to section §___.27(e)(10)(iv)(J), which authorizes the Kenai River community gillnet fishery. The request is for a complete rewrite of this regulatory section. If adopted, the following effects may occur:

- The fishing season would expand from the current June 15 to August 15 dates to a new May 1 to November 15 season.
- The primary contact (and issuer of the community gillnet permit) would switch from the Federal in-season manager to OSM.
- The operational plan requirement would be replaced with standard permit conditions.
- NTC would become the only organization authorized in Federal subsistence regulation to coordinate this fishery.
- The annual post season reporting requirement for the fishery would be removed.
- All fish harvested would have to be reported within 72 hours of leaving the gillnet location as a condition of the permit.
- A collaborative process would be established to inform and consult with NTC and the Council prior to potential closures or other Federal actions.

The alterations of dates for the fishing season would expand from the current June 15 to August 15 dates to a new May 1 to November 15 season. This would create a higher probability of harvest in general, harvest of fish species other than salmon, and harvest of salmon and resident fish in spawning phase conditions. While this would provide additional subsistence harvest opportunity for Federally qualified subsistence users from the community of Ninilchik, the expanded season would also increase the probability of harvest of spawning Rainbow Trout in the spring and spawning Chinook Salmon through the summer. Chinook Salmon, currently a species of concern for Federal and State managers, start entering the river in late May and begin staging for spawning in early July. They spawn from mid-July through the month of August in

Moose Range Meadows, the area that was the subject of the draft operational plans and the location where the 2016 experimental community gillnet fishery (under FSA16-02) took place. The extended fishing season could increase the likelihood of regulatory conflict due to incidental catch of Rainbow Trout and Dolly Varden 18 inches in length or greater, or through harvest of salmon and resident species outside of dates allowed under existing fisheries regulations. It would not resolve the current regulatory conflict for Chinook Salmon fishing seasons that allow the community gillnet fishery between June 15 and August 15, but restrict Chinook Salmon harvest to July 16 through September 30.

The primary contact (and issuer of the community gillnet permit) would switch from the Federal in-season manager to OSM. The proponent was contacted to clarify this same request for proposal FP17-09, and confirmed that the request was to switch the primary contact from the in-season manager to OSM. If approved, the Federal Subsistence Board would take over the responsibilities of the Federal in-season manager by rescinding the current delegation of authority. The Board delegates its authority to agency field officials so that decisions can be more responsive and timely for Federally qualified subsistence users in real time situations and to address conservation and safety concerns at a local level. By no longer requiring the Federal in-season manager to issue the community gillnet permit, the interaction between the proponent and the Federal in-season manager would be diminished. Under this scenario, necessary management actions warranted during the fishery would have to go through the Federal Subsistence Management Program's special action request process. Although the special action request process is responsive, in-season fishery management in Alaska may require a more immediate response to protect continued viability of fish populations, to continue subsistence uses, or for issues of public safety. It often takes several weeks to process a special action request. OSM was established to support the Board and its decisions. OSM is not responsible for the management of Federal lands, nor is it identified in ANILCA Title VIII or the Environmental Impact Statement for the Subsistence Management for Federal Public Lands in Alaska as a decision making entity within the Federal Subsistence Management Program.

The operational plan requirement for the fishery would be replaced with standard permit conditions. The permit conditions would include: limiting the gillnet to 10 fathoms in length; direct construction of the net to target Sockeye, Chinook, Coho, and Pink Salmon; not allow obstruction of more than one half of the river; restrict setting the net within 200 feet of other subsistence stationary gear; require identification of person or persons responsible for overall operation of the gillnet as well as means for identifying persons authorized to supervise those fishing; and provisions for recording daily catches, ensuring removal of the dorsal fin of harvested fish, and identifying households to whom the catch was distributed. Additionally, the NTC would provide notice to the OSM no later than February 1 of the intent to operate a gillnet fishery, and the OSM would issue a subsistence gillnet permit no later than April 1.

The operational plan currently describes how fishing time and fish will be offered and distributed among households and residents of Ninilchik. Replacing this requirement with static permit conditions would reduce the burden on the proponent prior to, during, and following the fishery each year. However, the removal of the operational plan requirement would decrease the ability of the Federal in-season manager to make annual adjustments to the fishery as necessary, based on the prior years' harvest. The Federal in-season manager's delegated authority would still allow for issuance of emergency special actions to: open and close Federal subsistence fishing periods or areas provided under codified regulations; specify

methods and means; specify permit requirements; set harvest and possession limits; and close and re-open Federal waters to non-subsistence fishing. Removal of the operational plan could also limit the ability to address issues with distribution of harvested fish in the community, should any arise. Additionally, this change would substantially decrease the interaction between the proponent and the Federal in-season manager.

NTC would become the only organization authorized in Federal subsistence regulation to coordinate this fishery. Ninilchik is the largest rural community on the Kenai Peninsula and has a population of 1,476 people, within 682 households, where 16.2% of its population is Alaska Native (U.S. Census Bureau 2010). As a Federally recognized tribe, NTC may not be representative of all residents of this relatively diverse community. Currently, three different organizations in Ninilchik (NTC, Ninilchik Native Descendants, and Ninilchik Emergency Services) are permitted by ADF&G to conduct educational fisheries. Authorizing NTC as the only organization allowed to coordinate a community gillnet fishery may discourage Federally-qualified subsistence users in the community that are not associated with NTC from participating in this subsistence opportunity. However, NTC has coordinated the operation of the Kasilof River experimental community gillnet fishery for the past two seasons and the Kenai River community gillnet fishery for a portion of the 2016 season.

The annual post season reporting requirement for the fishery would be removed. The proponent states that this requirement is "undue and excessively burdensome" and that it is "not required by other fisheries". The report provides the persons or households operating the gear, hours of operation, and number of each species caught and retained or released. Removing this requirement would decrease the burden on the proponent during and following each fishing season. This information is used to assess the various aspects of the fishery and inform management decisions, and removal of this requirement would make those tasks more challenging for the Federal in-season manager. This type of information also helps identify data gaps and priority information needs for future research.

All fish harvested would have to be reported within 72 hours of leaving the gillnet location as a condition of the permit. Specific timelines are not provided for this fishery in current regulation; however, 72 hours is the timeline provided for reporting harvest to the Federal in-season manager in the Kasilof River experimental community gillnet fishery. This addition would clarify reporting timelines for the fishery.

A collaborative process would be established to inform and consult with NTC and the Council prior to potential closures or other Federal actions. The creation of a collaborative decision making process prior to initiating actions on the fishery would give the proponent and the Council a greater influence over management than they currently have. In an effort to ensure that in-season management decisions are communicated broadly and fairly, the delegation of authority letter from the Federal Subsistence Board to the Federal in-season manager (Federal Subsistence Board 2002; **Appendices B and C**) requires that "The Project Leader (Federal in-season manager) will … notify/consult with local ADF&G managers, Regional Advisory Council members, and other affected Federal conservation unit managers concerning special actions being considered." Through the delegation of authority, it is the intent of the Board that subsistence management by Federal officials be coordinated with the ADF&G and involves Regional Advisory Council representatives to conserve healthy fish and wildlife populations while providing for

subsistence uses. However, due to statutory constraints outlined in the Federal Advisory Committee Act (FACA) that dictates the requirements necessary to convene a Council meeting, which would be needed for the Council to make a recommendation regarding the fishery, the timeframe required would likely render the Council's involvement ineffective, as in-season management decisions are responsive to real-time conservation and safety concerns, and Council meetings require publication in the Federal Register (a time-consuming effort). Each letter of delegation explicitly stipulates criteria for the review of proposed special actions, guidelines for delegation, and reporting requirements. The Board strives to have complete adherence to these delegation requirements and works throughout the year to maintain relationships and open communications with relevant Councils, agencies, and departments. In addition, the Federal Subsistence Board's *Government-to-Government Tribal Consultation Policy* already requires government to government consultation with Federally recognized tribes that may be affected by management actions, and the Ninilchik Traditional Council is a Federally recognized tribe. However, in-season management actions are exempted from this policy.

Finally, if the proposed changes are adopted in full, this would constitute a complete re-write of the regulations for this fishery and the new regulation would wholly eliminate two items. Currently, regulations allow fishing during the specified time period (June 15 through August 15) unless closed or otherwise restricted by Federal special action. Additionally, fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action. These provisions for fisheries closures by Federal special action are not provided for in the newly proposed regulation language.

If the proposal is not adopted, the Kenai River community gillnet fishery would continue to be administered as originally adopted by the Board in 2015 and stipulated in Federal subsistence regulations. Regulatory conflicts created through adoption of this fishery will also remain in effect.

OSM CONCLUSION

Given the ongoing RFR process related to the Kenai River community gillnet fishery, OSM is offering two potential courses of action for Board consideration. Option 1 assumes that the RFR process is ongoing: either the Board has not reached a decision about the threshold analysis or has determined that one or more claims meet the threshold for further analysis. Option 2 assumes that the RFR process has been completed and the Kenai River community gillnet fishery regulations remain in place.

Option 1:

Defer FP17-10.

Justification

FP17-10, submitted by the Ninilchik Traditional Council, requests liberalization and changes to the administration of the community gillnet fishery in the Kenai River that was authorized by the Board in January of 2015, with its adoption of FP15-10. With simultaneous RFRs currently underway, it is recommended by OSM that any decisions on FP17-10 be deferred so as not to preclude any decisions that

have yet to be made by the Board through the RFR process.

Option 2:

Support FP17-08 **with modification** to only add a required permit condition that NTC will report all fish harvested within 72 hours of leaving the gillnet location. OSM's assessment of each requested regulatory change is provided following the modified regulatory language.

The modified regulation should read:

Cook Inlet Area

§___.27(e)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under the authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally, for Federally managed waters of the Kasilof and Kenai River drainages:

(J) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow Trout and Dolly Varden 18 inches or longer. Rainbow Trout and Dolly Varden 18 inches or greater must be released.

(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:

(i) Prior to the season, provide a written operational plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;

(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number

of each species caught and retained or released.

(3)The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i)Identifies a person who will be responsible for fishing the gillnet;

(ii)Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.

(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households. ***All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location****.*

(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

Assessment of Requested Regulatory Changes

Request 1

The proponent requests the Board expand the annual duration of the fishery to May 1 through November 15, from the current June 15 to August 15 season.

Points to Consider:

1. The requested expanded timeframe of May 1 through November 15 would create a higher probability of harvest in general, harvest of fish species other than salmon, exposure of salmon to harvest, and harvest of salmon in spawning phase conditions.
2. This would provide additional subsistence harvest opportunity for Federally qualified subsistence users from Ninilchik.
3. Regulatory conflicts with the community gillnet fishery would remain since:
    a. The Chinook Salmon fishery currently occurs between July 16 and September 30;
    b. The Sockeye Salmon fishery currently occurs between June 15 and August 15;
    c. The Coho Salmon fishery currently occurs between July 16 and September 30;

d. The Pink Salmon fishery currently occurs between July 16 and September 30;

e. Incidental harvest of Rainbow Trout and Dolly Varden of 18 inches in length or greater would remain and possibly increase.

f. Kenai National Wildlife Refuge regulations at §36.39(i)(12) prohibit use or access between July 1 and August 15 to any portion of 25-foot wide public easements or the three designated public easement trails located parallel to the Homer Electric Association Right-of-Way from Funny River Road and Keystone Drive to the downstream limits of the public use easements.

4. In order to implement this request, §___.27(e)(10)(iv)(D)(2) would need to be modified to adjust seasons.

*OSM's conclusion is to **Oppose** this request. Expansion of fishery dates in this section would not fix current regulatory conflicts with harvest of Chinook Salmon outside of their season, harvest of Rainbow Trout and Dolly Varden 18 inches or longer, and Kenai National Wildlife Refuge riverbank closure areas. It would instead create additional regulatory conflicts with current seasonal dates provided for salmon.*

Request 2

The proponent requests the Board make OSM the issuer of the registration permit for the fishery rather than the Federal in-season manager.

Points to Consider:

1. Moving issuance of permits and management of the fishery to OSM would substantially slow the process as OSM does not currently have delegated authority over the fishery or the infrastructure to conduct in-season management of fisheries.
2. The Federal Subsistence Board would take over the responsibility of the Federal in-season manager by rescinding the delegated authority.
3. Absent the in-season manager, management of the fishery would be conducted through the Federal Subsistence Program's Special Action Request Process.
4. Fishery management in Alaska may require a more immediate response than the Special Action Request process to protect continued viability of fish populations, continuation of subsistence uses, or for issues of public safety.

*OSM's conclusion is to **Oppose** this request. The Board delegates its authority to agency field officials so that decisions can be more responsive and timely in real time situations to address conservation and safety concerns at a local level. Running the fishery through OSM and the Board will not allow for that same timely response.*

Request 3

The proponent requests the Board replace the operational plan requirement of the permit with specific permit conditions.

Points to Consider:

1. The Board adopted Proposal FP15-10 by a 5-3 vote to authorize a community gillnet fishery on the Kenai River with the requirement of an approved operational plan to address any outstanding conservation concerns and logistics for the fishery prior to implementation each season.
2. Removal of the operational plan requirement would decrease the opportunity for the Federal in-season manager and community gillnet fishery operating organization to collaborate and make adjustments to the fishery as necessary, based on the prior years' harvest and any other issues that may arise.
3. Current regulations allow fishing during the specified time period (June 15 through August 15) unless closed or otherwise restricted by Federal special action, and fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action. Removal of the operational plan requirement will render these regulations moot, and these restrictions are not provided for in the newly proposed regulatory language.
4. This change would decrease the potential for collaboration between the proponent and the Federal in-season manager prior the start of the annual season.
5. The change could limit the ability to address issues with distribution of fish in the community and safety concerns, should any arise.
6. This change would decrease the burden on the proponent prior to the fishery each year.

*OSM's conclusion is to **Oppose** this request. The Board required an operational plan for this fishery to address conservation concerns, regulatory requirements, and logistic issues prior to the start of this fishery each year. Issues clearly remain on both of these fronts, and so the operational plan should remain as well for now.*

Request 4

The proponent requests the Board name the Ninilchik Traditional Council as the coordinator of the community gillnet fishery in regulation.

Points to Consider:

1. The existing Kenai River community gillnet regulation provides flexibility to allow the coordination of the fishery change based on future needs of residents of Ninilchik.
2. Designating NTC in regulation as the organization allowed to coordinate a community gillnet fishery may discourage Federally qualified subsistence users in the community not associated with

NTC from participating in the fishery.

3. This is effectively how NTC has conducted efforts for this fishery the past two seasons.
4. OSM is recommending making this change (specifying NTC as the coordinator of the fishery) for FP17-09 during the 5-year experimental period of the Kasilof River experimental community gillnet, with the intent to allow any concerns about NTC organizing the fishery to be voiced prior to a determination on whether to make that fishery permanent. As the Kenai River community gillnet fishery is not experimental in regulation and has no sunset provision, no such mechanism is in place.

*OSM's conclusion is to **Oppose** this request. OSM believes that this issue should be addressed for the experimental duration of the Kasilof River community gillnet fishery prior to making this change for the Kenai River community gillnet fishery to ensure there are no relevant reasons not to make this change.*

Request 5

The proponent requests the Board remove the annual report requirement.

Points to Consider:

1. The current regulation requires that after the season, the organizer of the fishery will provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.
2. Removal would mean that much of the information provided to the Federal in-season manager and used to assess the fishery, including number of Federally qualified subsistence users participating in the fishery and any conservation impacts on non-target species, would no longer be required of the proponent.
3. This would decrease the burden on the proponent during and following the fishery each year.
4. This would make the task of assessing the fishery and its impacts to non-target species more challenging for the Federal in-season manager and the Board each year.
5. Information provided in these types of reports helps to identify data gaps and set priority information needs for future research.

*OSM's conclusion is to **Oppose** this request. Given the regulatory conflicts and biological concerns that have been raised for this fishery, OSM believes that any additional information provided in an annual post season report would be important for assessing the fishery and helping to direct future research.*

Request 6

The proponent requests the Board add a required permit condition that NTC will report all fish harvested within 72 hours of leaving the gillnet location.

Points to Consider:

1. Specific reporting timelines are not provided for this fishery in current regulation.
2. A 72 hour reporting timeline would match the timeline in place for the Kasilof River experimental community gillnet fishery.
3. This may require more effort on the part of the proponent.

*OSM's conclusion is to **Support** this request. Inclusion of this reporting timeline in regulation would be consistent with the timeline for the other community gillnet fishery available to the residents of Ninilchik.*

Request 7

The proponent requests the Board establish a collective process through which NTC and the Southcentral Alaska Subsistence Regional Advisory Council are informed and consulted prior to any potential closures or other actions by the Federal in-season manager.

Points to Consider:

1. Statutory constraints outlined in the Federal Advisory Committee Act (FACA) dictate the necessity for convening a publically noticed Council meeting, which would be required for the Council to make a recommendation regarding the fishery. The current structure of Title VIII only provides that the Councils may make recommendations to the Board, not to persons with delegated authority. However, consultation with Council chairs (not Councils as a whole) is part of the regulatory process in place for special action requests.
2. The creation of a collaborative decision making process prior to initiating actions on the fishery would give the proponent a greater influence over management than they currently have.
3. If consultation with the entire Council is desired, the timeframe required to convene a Council meeting would likely render the Council's involvement ineffective, as in-season management decisions are responsive to real time conservation and safety concerns, and Council meetings require publication in the Federal Register (a time-consuming effort).
4. In an effort to ensure that in-season management decisions are communicated broadly and fairly, the delegation of authority letter from the Federal Subsistence Board to the Federal in-season manager requires that "The Project Leader (Federal in-season manager) will … notify/consult with local ADF&G managers, Regional Advisory Council members, and other affected Federal conservation unit managers concerning special actions being considered."
5. Through the delegation of authority, it is the intent of the Board that subsistence management by Federal officials be coordinated with the Alaska Department of Fish and Game and involve Regional Advisory Council representatives to conserve healthy fish and wildlife populations while providing for subsistence uses.
6. While operating under delegated authority from the Board, the Federal in-season manager is obligated to engage in tribal consultation consistent with the Board's *Government-to-Government*

Tribal Consultation Policy. Under "Communication," that policy provides, "For in-season management decisions and special actions … to the extent practicable, two-way communication will take place before decisions are implemented." As NTC happens to be both the party administering the community gillnet and a Federally recognized tribe that may be affected by management decision, government to government consultation with NTC should already be occurring pursuant to that policy. However, an exemption from this policy for in-season management decisions may prevent consultation during the fishery season.

OSM's conclusion is to ***Oppose*** *this request. The Federal in-season manager, via delegated authority from the Board, is required to perform notification/consultation with affected Regional Advisory Council members and engage in government to government consultation with affected tribes. Additional regulatory language is unnecessary.*

LITERATURE CITED

ADF&G. 2016a. Alaska Fisheries Sonar. Escapement Goals. http://www.adfg.alaska.gov/index.cfm?adfg=sonar.escapementgoals. Retrieved July 2016.

ADF&G. 2016b. Personal communication: e-mail from Jason Pawluk, Assistant Area Management Biologist, Northern Kenai Peninsula, to George Pappas, OSM State Liaison. June 28, 2016. Soldotna, Alaska.

ADF&G. 2016c. Kenai (RM 8.6) River. http://www.adfg.alaska.gov/index.cfm?adfg=sonar.site_fish&site=2. Retrieved July 2016.

ADF&G Chinook Salmon Research Team. 2013. Chinook Salmon stock assessment and research plan, 2013. Alaska Department of Fish and Game, Special Publication No. 13-01, Anchorage, Alaska.

Alexandersdottir, M., and L. Marsh. 1990. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1989. Alaska Department of Fish and Game, Fishery Data Series Number 90-55, Anchorage, Alaska.

Begich R. 2016a. Area Management Biologist. Personal communication: phone. Alaska Department of Fish and Game. Soldotna, Alaska.

Begich, R. N., J. A. Pawluk, J. L. Cope, and S. Simons. 2013. 2010-2012 Annual Management Report and 2013 recreational fisheries overview for Northern Kenai Peninsula: fisheries under consideration by the Alaska Board of Fisheries, 2014. Alaska Department of Fish and Game, Fishery Management Report No. 13-51, Anchorage, Alaska.

Bendock, T. and M. Alexandersdottir. 1990. Hook and Release Mortality of Chinook Salmon in the Kenai River Recreational Fishery. Alaska Department of Fish and Game, Fishery Data Series No. 90-16, Anchorage, Alaska.

Bendock, T. and M. Alexandersdottir. 1992. Mortality and movement behavior of hooked-and-released Chinook salmon in the Kenai River recreational fishery, 1989–1991. Alaska Department of Fish and Game, Fishery Data Series No. 92-2, Anchorage, Alaska.

Bendock, T. N., and M. Alexandersdottir. 1991. Hook-and-release mortality in the Kenai River Chinook Salmon recreational fishery. Alaska Department of Fish and Game, Fishery Data Series Number 91-39, Anchorage, Alaska.

Bendock, T. and M. Alexandersdottir. 1992. Mortality and movement behavior of hooked-and-released Chinook salmon in the Kenai River recreational fishery, 1989–1991. Alaska Department of Fish and Game, Fishery Data Series No. 92-2, Anchorage, Alaska.

Bendock, T. and M. Alexandersdottir. 1992. Mortality and movement behavior of hooked-and-released Chinook salmon in the Kenai River recreational fishery, 1989–1991. Alaska Department of Fish and Game, Fishery Data Series No. 92-2, Anchorage, Alaska.

Boersma, J. K., and K. S. Gates. 2016. Abundance and run timing of adult Chinook Salmon in the Funny River, Kenai Peninsula, Alaska, 2015. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Conservation Office, Alaska Fisheries Data Series Number 2016-3, Soldotna, Alaska

Burger, C.V., D.B. Wangaard, R.L. Wilmot, and A.N. Palmisano. 1983. Salmon investigations in the Kenai River, Alaska, 1979 – 1981. Alaska Field Station, National Fishery Research Center, U.S. Fish and Wildlife Service. Anchorage, Alaska.

Carlon, J. A. and D. Evans. 2007. Abundance of adult Coho Salmon in the Kenai River, Alaska, 1999-2003. Alaska Department of Fish and Game, Fishery Data Series No. 07-81, Anchorage, Alaska.

Carlon, J. A., and M. Alexandersdottir. 1989. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1988. Alaska Department of Fish and Game, Fishery Data Series Number 107, Juneau, Alaska.

Cassidy, C. and G. Titus. 2003. Alaska's No. 1 Guide: The History and Journals of Andrew Berg 1869-1939. Spruce Tree Publishing. Soldotna, Alaska.

Conrad, R. H. 1988. Abundance estimates for Chinook Salmon into the Kenai River, Alaska, by analysis of tagging data, 1987. Alaska Department of Fish and Game, Fishery Data Series Number 67, Juneau, Alaska

Conrad, R. H., and L. L. Larson. 1987. Abundance estimates for Chinook Salmon (*Oncorhynchus tshawytscha*) into the Kenai River, Alaska, by analysis of tagging data, 1986. Alaska Department of Fish and Game, Fishery Data Series Number 34, Juneau, Alaska.

Crane, P., J. Bromaghin, D. Palmer, and J. Wenburg. 2007. Personal communication. Assisting management with admixture analysis of coho salmon smolt: Freshwater dispersal of juveniles in the Kenai River, Alaska. Conservation Genetics Laboratory, U.S. Fish and Wildlife Service.

DeCicco, A. L. 1994. Mortality of Anadromous Dolly Varden Captured and Released on Sport Fishing Gear. Alaska Department of Fish and Game, Fishery Data Series No. 94-47, Anchorage, Alaska.

de Laguna, F. 1934. The archaeology of Cook Inlet, Alaska. Philadelphia: University of Pennsylvania Press. 264 pages.

Eskelin, A. 2016. Fisheries Biologist, Alaska Department of Fish and Game. Personal communication: by telephone. Soldotna, Alaska.

Eskelin, A., and D. Evans. 2013. Stock assessment of rainbow trout in the upper Kenai River, Alaska, 2009. Alaska Department of Fish and Game, Fisheries Data Series No. 13-22, Anchorage, Alaska.

Fall, J. A., R. T. Stanek, B. Davis, L. Williams, and R. Walker. 2004. Cook Inlet customary and traditional subsistence fisheries assessment. U.S. fish and Wildlife Service, Office of Subsistence Management, Fisheries Resource Monitoring Program, Final Report (Study No. 03-045). Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 285. Juneau, Alaska. 245 pages.

Fall, J. A. et al. 2013a. Alaska subsistence and personal use salmon fisheries 2010 annual report. Alaska Department of Fish and Game Division of Subsistence, Technical Paper No. 381, Anchorage, Alaska.

Fall, J. A. et al. 2013b. Alaska subsistence and personal use salmon fisheries 2011 annual report. Alaska Department of Fish and Game Division of Subsistence, Technical Paper No. 387, Anchorage, Alaska.

FSB. 2007a. Transcripts of the Federal Subsistence Board proceedings. May 8 – 10, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2007b. Transcripts of the Federal Subsistence Board proceedings. December 11 – 13, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2009. Transcripts of the Federal Subsistence Board proceedings. January 13 – 15, 2009. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2013. Transcripts of the Federal Subsistence Board proceedings. January 22 – 24, 2013. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2015. Transcripts of the Federal Subsistence Board proceedings. January 21 – 23, 2015. Office of Subsistence Management, USFWS. Anchorage, Alaska.

Georgette, S. 1983. Ninilchik: Resource uses in a small, road-connected community of the Kenai Peninsula Borough In Resource use and socioeconomic systems: case studies of fishing and hunting in Alaskan communities. R. Wolfe and L. Ellanna, compilers. Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 61. Juneau, Alaska. Pages 170–187.

Hammarstrom, S. L., and L. L. Larson. 1986. Cook Inlet Chinook and Coho Salmon studies. Alaska Department of Fish and Game, Federal Aid in Fish Restoration and Anadromous Fish Studies, Annual Performance Report, 1985-1986, Project F-10-1, 27(S-32):40-88, Juneau, Alaska.

Hammarstrom, S. L., L. L. Larson, M. Wenger, and J. Carlon. 1985. Kenai Peninsula Chinook and coho salmon studies. Alaska Department of Fish and Game, Federal Aid in Fish Restoration. Annual Performance Report, 1984–1985, Project F-9-17(26) G-II-L, Juneau, Alaska.

Kerkvliet, C.M. 2016. Area Management Biologist. Personal communication: phone. Alaska Department of Fish and Game. Homer, Alaska.

Kerkvliet, C.M., M.D. Booz, and B.J. Failor. 2013. Recreational fisheries in the Lower Cook Inlet Management Area, 2011-2013, with updates for 2010. Alaska Department of Fish and Game, Fishery Management Report No. 13-42, Anchorage, Alaska.

King, B. E. and J. A. Breakfield. 2002. Coded wire tagging studies in the Kenai River and Deep Creek, Alaska, 1998. Alaska Department of Fish and Game, Fishery Data Series No. 02-03, Anchorage, Alaska.

King, B. E. and J. A. Breakfield. 2007. Stock Assessment of Rainbow Trout in the Upper Kenai River, Alaska, in 2001. Alaska Department of Fish and Game, Fishery Data Series No. 07-14, Anchorage, Alaska.

Krauss, M. E. 1982. Native peoples and languages of Alaska. Map. Alaska Native Language Center, University of Alaska Fairbanks. Fairbanks, Alaska.

Lafferty, R., R. Massengill, T. Namtvedt, D. Bosch, and J. Hasbrouck. 2005. Stock status of coho salmon in Upper Cook Inlet. Alaska Department of Fish and Game, Division of Sport Fish, Unpublished Report to the Alaska Board of Fisheries, 2005. Anchorage, Alaska.

Larson, L.L. and P. Hansen. 2000. Stock Assessment of Rainbow Trout in the Middle Kenai River, 1999. Alaska Department of Fish and Game, Fishery Data Series No. 00-19, Anchorage, Alaska.

Lewis, B., W. S. Grant, R. E. Brenner, and T. Hamazaki. 2015. Changes in size and age of Chinook Salmon Oncorhynchus tshawytscha returning to Alaska. PLoS ONE 10(6):1-17.

Lindsay, R. B., R. K. Schroeder, and K. R. Kenaston. 2004. Hooking Mortality by Anatomical Location and Its Use in Estimating Mortality of Spring Chinook Salmon Caught and Released in a River Sport Fishery. North American Journal of Fisheries Management 24: 367-378.

Loshbaugh, D. 1993. Natives Get Fishery to Preserve Culture. Homer News. Vol. 20. No.28: 1,14.

Miller, J. D., D. L. Burwen, and S. J. Fleischman. 2011. Estimates of Chinook Salmon passage in the Kenai River using split-beam sonar, 2007. Alaska Department of Fish and Game, Fishery Data Series Number 11-52, Anchorage, Alaska.

Nelson, D., D. Athons, P. Berkhahn, and S. Sonnichsen. 1999. Area management report for the recreational fisheries of the Kenai Peninsula, 1995–1997. Alaska Department of Fish and Game, Division of Sport Fish, Fishery Management Report No. 99-3. Anchorage, Alaska. 244 pages.

Olsen, J. B., S. J. Miller, W. J Spearman, and J. K. Wenburg. 2003. Patterns of intra- and inter-population genetic diversity in Alaskan coho salmon: Implications for conservation. Conservation Genetics 4, 557–569.

OSM. 2007. Staff analysis FP07-11, 12, 13, 27D, 29. Pages 143-170 *in* Federal Subsistence Board Meeting Materials. May 8-10, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska. 295 pp.

Palmer, D. E. 1998. Migratory behavior and seasonal distribution of radio-tagged Rainbow Trout in the Kenai River, Alaska. U.S. Fish and Wildlife Service, Kenai Fishery Resource Office, Alaska Fisheries Technical Report number 46. Kenai, Alaska. 112 pp.

Palmer, D.E. and B. E. King. 2005. Migratory patterns of different spawning aggregates of Dolly Varden in the Kenai River watershed. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Field office, Alaska Fisheries Technical Report number 86. Kenai, Alaska. 30 pp.

Reimer, A. M. 2013. Migratory timing and distribution of Kenai River Chinook Salmon, 2010-2013, a report to the Alaska Board of Fisheries, 2014. Alaska Department of Fish and Game, Division of Sport Fish, Regional Information Report 2A12-06, Anchorage, Alaska.

Shields, P., and A. Dupuis. 2016. Upper Cook Inlet commercial fisheries area management report, 2015. Alaska Department of Fish and Game, Division of Commercial Fisheries. Fishery Management Report No. 16-14, Anchorage, Alaska.

Schill, D. L, and R. L. Scarpella. 1997. Barbed Hook Restrictions in Catch-and-Release Trout Fisheries: A Social Issue. North American Journal of Fisheries Management 17: 873-881.

Stanek, R. 1980. Subsistence Fishery Permit Survey. Cook Inlet 1980. Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 30. Juneau, Alaska. 21 pages.

Taylor, M. J., and K. R. White. 1992. A Meta-Analysis of Hooking Mortality of Nonanadromous Trout. North American Journal of Fisheries Management 12: 760-767.

U.S. Census Bureau. 2010. Profile of general population and housing characteristics for Ninilchik, Alaska. http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF. Retrieved: June 22, 2016.

USFWS. 2007. Federal subsistence harvest by community summary for the Cook Inlet Area subsistence Fisheries, 2007. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2008. Cook Inlet area Federal subsistence fisheries 2008 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2009. Cook Inlet area Federal subsistence fisheries 2009 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2010. Cook Inlet area Federal subsistence fisheries 2010 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2011. Cook Inlet area Federal subsistence fisheries 2011 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2012. Cook Inlet area Federal subsistence fisheries 2012 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2013. Cook Inlet area Federal subsistence fisheries final 2013 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2014. Cook Inlet area Federal subsistence fisheries 2014 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

USFWS. 2015. Cook Inlet area Federal subsistence fisheries 2015 summary. Unpublished report. USFWS. Soldotna, Alaska. 1 pp.

WDFW. 2014. Grays Harbor and Willapa Bay Commercial Salmon Fisheries' Mortality Rates. http://wdfw.wa.gov/fishing/commercial/salmon/2014/ifsp_mortality_rates_final_report_033114.pdf. Retrieved July 2016.

Williams, L., C. Venechuk, D. Holen and W. Simeone. 2005. Lake Minchumina, Telida, Nikolai, and Cantwell Subsistence Community Use Profiles and Traditional Fisheries Use. Alaska Department of Fish and Game, Division of Subsistence, Technical Paper No. 265. Juneau, Alaska.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Support FP17-10 **with modification** to change fishery dates to June 15 through September 30.

The Council supported FP17-10 with one Council amendment, as proposed by the proponent (the Ninilchik Traditional Council) during public testimony, to change the fishery date range to June 15 through September 30. The Council said that these amended dates would provide a good season for the harvest of Sockeye Salmon. It was commented that the net used in 2016 seemed to be selective, that there was good monitoring of the net, and as such it did not appear to present a conservation concern. Additionally, it was noted that the daily reporting would serve as a way for the Federal in-season manager to monitor what was occurring in the fishery should any action need to be taken.

The Council supported the idea of OSM issuing a permit with conditions rather than the current system of an operational plan that has to be approved by the Federal managers. They raised concerns with how the operational plan process had occurred thus far, and disagreed with the assertion that switching from an operational plan to a permit with specific conditions would decrease the potential for collaboration between the proponent and the Federal in-season manager and Refuge manager. They also discussed specific dates being put into place for certain actions that would need to take place during the permitting process so that better planning could take place for the whole fishery.

The Council heard and read the concerns of the residents of Cooper Landing and Hope, who pointed out that the current Sockeye Salmon limit of 4,000 for subsistence users could possibly be reached with a gillnet. The Council requested that OSM and the Interagency Staff Committee examine whether the annual total harvest limit of 4,000 Sockeye Salmon for the Kenai River Federal subsistence fishery is a reasonable number or should be modified, or if it should be replaced altogether with household limits.

The Council also requested that OSM to continue to examine regulatory conflicts for the Cook Inlet area gillnet fishery season dates in Section J and the pre-existing dates in Section D, to which the gillnet fishery is linked, and make recommendations to the Board for fixing them.

The modified language should read:

> *§___.27(e)(10)(J)* ***The Ninilchik Traditional Council (NTC) may operate a community gillnet to provide for the subsistence uses of fish for the residents of Ninilchik from June 15 through September 30. Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink Salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow Trout and Dolly Varden 18 inches or longer. Rainbow Trout and Dolly Varden 18 inches or greater must be released.***
>
> > ***(1) The Ninilchik Traditional Council shall provide notice to the Office of Subsistence Management no later than February 1st of its intent to operate a gillnet fishery. No later than April 1st, a subsistence gillnet permit will be issued by the Office of Subsistence***

Management in consultation with the Federal in-season fishery manager, the Kenai National Wildlife Refuge Manager, and the Ninilchik Traditional Council.

(2) The permit conditions shall include:

(i) Provisions that the gillnet may be not be over 10 fathoms in length, shall be constructed such that it is directed at harvesting Sockeye, Chinook, Coho, and Pink Salmon, may not obstruct more than half of the river width with stationary fishing gear, and may not be set within 200 feet of other subsistence stationary gear.

(ii) Identification of the person or persons who will be responsible for the overall operation of the gillnet as well as a means for identifying persons authorized by the Tribe to supervise members of the community engaged in fishing the net.

(iii) Provisions for recording daily catches, ensuring that removal of the dorsal fins of harvested fish, and identifying the Ninilchik households to whom the catch was distributed.

(iv) Provisions for NTC's reporting of all harvested fish within 72 hours of leaving the gillnet location.

(v) Identification of a collaborative process for making determinations about potential closures or other actions affecting the gillnet fishery through which NTC and the SCRAC are fully informed and consulted prior to the implementation of any such action.

(3) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kenai River.

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.

Given the on-going process for Request for Reconsideration for the Kenai River Community Gillnet (RFR15-01), the Board may consider deferring action on FP17-10 until a subsequent meeting. In addition, the Board voted on October 24, 2016 to conduct negotiations with the Ninilchik Traditional Council in an effort to resolve the ongoing litigation. Results of this effort may present options to address issues associated with the community gillnet fishery on the Kenai River.

The Southcentral Alaska Subsistence Regional Advisory Council (Council) supported FP17-10 with a modification in the fishing season dates. According to the Council, the revised season dates may enable Ninilchik residents to harvest Sockeye Salmon at the start of the main Kenai River run, while also allowing them to take later-returning Coho Salmon to meet subsistence needs. Identifying NTC as the lead organization responsible for filling permits submitted by community members (both non-Tribal and Tribal) recognizes the harvesting/distribution system that has been successfully implemented and accepted. In addition, adopting a streamlined process, with identified benchmarks, may foster better collaboration between the in-season manager, the Refuge, and the Tribe. This collaborative process would benefit all users of this important subsistence fishery.

While the Council supported FP17-10 with modification, the Board should consider the regulatory concerns and other issues identified in the staff analysis. Some of these same regulatory concerns were addressed by Board action on Fisheries Special Action (FSA16-02) to allow the community gillnet fishery to occur between July 28 and August 15, 2016. The season dates in the original proposal and the Council recommendation would still result in regulatory conflicts with Chinook, Coho, and Pink salmon fishery dates (July 16 – Sept. 30) and the Sockeye Salmon fishery dates (Jun. 15 – Aug. 15) in cross-referenced regulations. The incidental harvest of Rainbow Trout and Dolly Varden longer than 18 inches and conflicts with shoreline closures on the Kenai National Wildlife Refuge also would remain. If the Board adopted FP17-10, as proposed or as recommended by the Council, subsequent action would still be required by the Board to implement a fishery in 2017. The shoreline closure issue is outside of the Board's jurisdiction.

When the Board adopted the Kenai gillnet fishery in 2015 (FP15-10), it acknowledged there were conservation concerns associated with the fishery. However, the Board stated these concerns would be addressed in an operational plan. Adoption of FP17-10 or the Council's recommendation would significantly liberalize the fishery while removing the requirement for an operational plan to address concerns for fish conservation or distribution of fish to households. While NTC successfully implemented the gillnet fishery in 2016, it was a limited opportunity and was not representative of the full season in the current or proposed regulation.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fishery Proposal FP17-10: This proposal was submitted by the Ninilchik Traditional Council and requests seven different changes to the Kenai River community subsistence gillnet fishery: 1) expand the seasonal dates; 2) have U.S. Fish and Wildlife Office of Subsistence Management (OSM) issue the registration permit (rather than the Federal in-season manager); 3) replace the operational plan requirement of the permit with specific permit conditions; 4) name the Ninilchik Traditional Council (NTC) in regulation as the coordinator of the community gillnet fishery; 5) remove the postseason reporting requirement; 6) add a requirement that NTC report all fish harvested within 72 hours of leaving the gillnet location as a permit condition; and 7) establish a collaborative process through which NTC and the Southcentral Alaska Subsistence Regional Advisory Council are informed and consulted prior to any potential closures or other actions by the Federal in-season fishery manager.

Background: During the 2015 Federal Subsistence Board regulatory cycle, Proposal FP15-10 was adopted at the Board's January 2015 public meeting. This proposal established a community gillnet fishery opportunity on the Kenai River for residents of Ninilchik. Over 700 requests for reconsideration have been submitted asking the Board to reverse or rescind this decision. The first community gillnet fishery on the Kenai River occurred in 2016 between July 29 and August 15, and harvest was 723 sockeye salmon, 6 pink salmon, 1 Chinook salmon, and 12 coho salmon. There were no rainbow or steelhead caught and 29 sockeye salmon, 1 pink salmon, and 2 Dolly Varden were released.

Impact on Subsistence Users: Ninilchik Traditional Council has expressed that a gillnet provides them with a meaningful subsistence opportunity. Use of a gillnet may increase their subsistence harvest.

Impact on non-Federally Qualified Subsistence Users: Because a gillnet is more efficient and the residents of Ninilchik have made minimal use of dip nets and rod and reel, if a gillnet was allowed it is likely harvest by those users would increase and less fish would be available for escapement or harvest by non-Federally qualified subsistence users.

Opportunities Provided by the State: Ninilchik is located in the Anchorage-Matsu-Kenai nonsubsistence area, (5 AAC 99.015(a)(3)) and subsistence fishing under state regulations is not permitted.

Personal use fishing, sport fishing, commercial fishing, and other fishing authorized by permit (i.e., educational fisheries) are permitted on Kenai River stocks, as well as commercial fishing.

1. The following personal use fisheries are available on the Kasilof and Kenai rivers to Ninilchik residents for the harvest of salmon (5 AAC 77.540), with an annual harvest limit of 25 salmon for the head of each household and 10 salmon for each additional household member (5 AAC 77.525):

a. Kasilof River Gillnet Personal Use Fishery. From 2011–2015 the total average annual harvest was 85 Chinook salmon and 21,398 sockeye salmon. Permit data indicate that Ninilchik households harvested an average of 113 sockeye salmon annually.
b. Kasilof River Dip Net Personal Use Fishery. From 2011–2015 the total average annual harvest was 77,245 sockeye salmon, and permit data indicate that Ninilchik households harvested an average of 396 sockeye salmon.
c. Kenai River Dip Net Personal Use Fishery. From 2011–2015 the total average annual harvest was 433,867 sockeye salmon, and permit data indicate that Ninilchik households harvested an average of 1,768 sockeye salmon.

2. Other fisheries authorized by permit (i.e., educational fishery; 5 AAC 93.200—5 AAC 93.235) that are used by Ninilchik residents to harvest salmon:
   a. Ninilchik Traditional Council Educational Fishery Permit, which allows a total salmon quota of 2,800 annually.
   b. Ninilchik Native Descendants Educational Fishery Permit, which allows a total salmon quota of 2,800 annually.
   c. Ninilchik Emergency Services Educational Fishery Permit, which allows a total salmon quota of 250 annually.

   In these fisheries from 2011–2015 the combined average annual harvest was 706 sockeye, 110 Chinook salmon, and 1,143 salmon (all species combined).

5 AAC 39.290. CLOSED WATERS. (a) commercial fishing for salmon is prohibited at all times within the streams and rivers of Alaska and within 500 yards of any salmon stream or over the beds or channels of streams and rivers of Alaska at all stages of the tide or as specified in regulations having particular application to designated streams or areas.

Conservation Issues: There are no stock concerns for Kenai River Chinook, sockeye, coho, or pink salmon as defined by the *Alaska Sustainable Salmon Fisheries Policy*. There are conservation issues with larger, older, 5-ocean tributary spawning Chinook salmon that arrive during the early-run fishery because they are no longer at historical abundance levels. To protect this stock, the Board of Fisheries has prohibited the harvest of these fish through size limit regulations in the sport fishery: the daily bag and possession limit for Chinook salmon in the Kenai River from January 1 through June 30 is one per day, one in possession, must be less than 42 inches in length or longer than 55 inches. This slot limit remains in effect even when the Kenai River early-run Chinook salmon escapement goal is met or exceeded.

In addition, rainbow trout are managed more conservatively in the Kenai River than under statewide regulations under the *Wild Trout Policy,* with closed seasons during historical spawning activity, and reduced bag, possession, and annual limits.

Recommendation: The State is NEUTRAL on the option to defer the proposal. The State supports the Ninilchik Traditional Council's desire to participate in subsistence activities that are meaningful to them under the Federal subsistence regulations. While the 2016 season operational plan was limited in scope due

to the late timing of the Special Action, the State was pleased with the harvest numbers, especially the minimal incidental catch and harvest of Chinook salmon and resident species. Allowing the use of a gillnet in the Kenai River while tributary spawning Chinook salmon are transiting the area increases the potential for harvest of 5-ocean tributary spawning Chinook salmon which have been below historical abundance levels.

It is possible that the community gillnet net could be structured to address these conservation concerns through an approved operational plan that either contains seasons that would avoid encounters with 5-ocean tributary spawning Chinook salmon and actively spawning rainbow trout or requires the gillnet to be closely attended so fish could be released quickly to minimize mortality. The State is ready to provide its fisheries management and biological expertise in the development and review process for future operational plans.

The State concurs with the majority of the recommendations of the OSM on the following issues:

Request 1: OPPOSE the expansion of the season to May 1–November 15 from the current June 15–August 15 season. These dates would not address current regulatory conflicts with Chinook salmon, rainbow trout, and Dolly Varden harvests, nor with the riverbank closure areas. Riparian habitat is protected in this area because it is susceptible to trampling. The State recommends a program to monitor the habitat be established to assess the impact of this fishery. As long as the net is closely attended we could support a modified date starting in mid-July.

Request 2: OPPOSE requiring OSM to issue the permits, rather than the USFWS inseason manager. OSM currently does not have delegated authority to issue the permits.

Request 3: OPPOSE replacing the operational plan with permit conditions. There are conservation concerns and logistics issues that are best addressed through the operational planning process.

The State recommends an amendment to require that the net be closely attended and impacts to riparian habitat be assessed.

Request 4: OPPOSE that NTC be named as the coordinator of the community gillnet fishery. This would allow time for community input on the role of NTC during the experimental phase of the Kasilof River fishery.

Request 5: OPPOSE removing the annual report requirements. Given the biological concerns with this fishery, any additional information provided in the annual postseason report is important for assessing the fishery and directing future research.

Request 6: SUPPORT requiring 72-hour reporting. This is consistent with other fisheries, and provides valuable inseason information for management decisions.

Request 7: OPPOSE establishing a collective process through which NTC and the Southcentral Regional Subsistence Advisory Council are informed and consulted. The Federal inseason manager already has delegated authority to perform notification/consultations with affected parties.

WRITTEN PUBLIC COMMENTS

May 17, 2016

Michael Adams
PO Box 847/38053 Snug Harbor Road
Cooper Landing, AK 99572

Attn: Theo Matuskowitz Federal Subsistence Board
Office of Subsistence Management
1011 E. Tudor Rd., MS-121
Anchorage, Ak 99503-6199

As a Cooper Landing resident and subsistence fisherman I oppose FP17-09 and FP17-10. These proposals attempt to liberalize the gill net fishing season and limits on the Kasilof and Kenai River while completely disregarding conservation measures intended to protect stocks of low abundance and species of concern.

FP17-09: Expanding the season for the gill net fishery on the Kasilof will result in increased steelhead mortality, a species of very low abundance that is currently very conservatively managed. It will also result in an increase in harvest of all river species including an increased catch of spawning king salmon, a species of declining abundance. By including language that allows retention of all bycatch the proposal seems to have the intent of targeting all species in the watershed regardless of abundance and without consideration of available scientific data or traditional knowledge.

FP-17-10:A liberalization of the gill net fishery on the Kenai River is unwarranted based on an existing meaningful priority through the use of expanded rod and reel limits and existing dip net fisheries. I fish the Kenai with these already existing methods and I can attest that they work. It also threatens to undermine the extensive management and conservation measures that have been implemented through the use of scientific data and an understanding of species abundance and spawning strength locality and timing. A gill net fishery located on some of the most essential spawning grounds in the Kenai watershed Is by Its very nature unsustainable. Expanding the season and limits for this fishery In the face of conservation concerns would have far reaching implications and reflects a lack of concern for the future of the fishery.

These proposals could result in unsustainable harvest of all species in what are arguably the Kenai Peninsulas two most important watersheds without concern for the future of the fisheries and the people who rely on them. A key to sustainable subsistence life is an understanding of species lifecycles and populations. To continually expand harvest opportunity without considering the short term and long term effects on the fishery is irresponsible and does not reflect the traditional values of subsistence and certainly does not reflect a respect for conservation.

Please vote no on FP17-09 and Fp17-10to ensure there are still sustainable numbers of fish, and therefore an opportunity for subsistence, in the years to come.

Sincerely,

Michael Adams

Chris Degernes
PO Box 683
Cooper Landing, AK 99572
Jaeger06@hotmail.com

May 22, 2016

Office of Subsistence Management
Attn: Regulations Specialist
1011 East Tudor Road, Mail Stop 121
Anchorage, Alaska 99503-6199

Re: Comments on Federal Subsistence Management Program 2017-2019 Fisheries Proposals Dear Mr.

Matuskowitz:

I have reviewed the specific proposals relating to regulation changes within the Cook Inlet area, specifically addressing the Kenai River. I support the recommendations found within FP 17-06, FP 17-07 and FP 17-08, while I oppose the proposals made within FP 17-09 and FP 17-10.

I am an authorized federal subsistence permittee residing in Cooper Landing and have utilized the dip net fishery at the Russian River Falls for a number of years. I believe that the conservation and sustainable management of our anadromous and resident fish is paramount to providing for the long term sustainability of our fisheries, thereby supporting our continued quality of life. If a particular method of harvest (i.e., gill net use) creates a risk to certain populations of fish, then it should be prohibited in favor of more discriminate type of harvest (i.e., rod and reel, dip net, etc.) Expediency and efficiency should not be factors in deciding what method of harvest may be permitted.

I urge that the new regulations delete permanently any provision authorizing gill nets on the Kenai River for subsistence harvest purposes, and that all Kenai River Chinook salmon are afforded protection while their numbers are at such historically low numbers. Thank you for considering my comments.

Sincerely, Chris

Degernes

Mckinney, Kayla
<kayla_mckinney@fws.gov>

Fwd: Cook Inlet Area Fisheries proposals

AK Subsistence. FW7 <subsistence@fws.gov> Wed, Jun 1, 2016 at 6:04 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Amee Howard <amee_howard@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ----------
From: **George Heim**
<gheim2000@gmail.com> Date: Thu, May 26, 2016 at 7:33 PM
Subject: Cook Inlet Area Fisheries proposals
To: subsistence@fws.gov

To Whom It May Concern:

I am writing to express support for FP-17-06, FP-17-07, & FP-17-08 and to oppose FP-17-09, & FP-17-10.

The Cooper Landing Advisory Committee held a meeting on May 14th to discuss these proposals. Due to predictable schedule conflicts for the
AC members at this time of year and the short notice between publishing the proposals and due date for comments, we were not able to convene a quorum. However, the members present were unanimous in supporting proposals to remove gill nets from the Kenai and to close a section of the Kenai River that is important for Chinook spawning activities and to oppose liberalization of gill nets in the Kasilof and to expand gill nets in the Kenai.

We were concerned about bycatch of non-target species in both waters including rainbow trout, dolly varden and king salmon in the Kenai and steelhead and king salmon in the Kasilof. Of particular concern was the possibility that rainbow trout in the Kenai and Steelhead in the Kasilof would be caught in the nets. Since there is no retention allowed for these species in those waters, and since any fish in a gill net is very likely to be killed persons operating the nets would be in violation of both State and Federal regulation and subject to penalties.
Obviously, this is not a desirable situation. Even if a fish is released from the net alive, it will have been injured and is likely to die after release. This would be wanton waste and should not be allowed.

Sincerely,

George Heim, President

907-599-2000
PO Box 725
Cooper Landing, AK 99572

Wednesday, May 25, 2016

ATTN: Theo Matuskowitz
Federal Subsistence Board
Office of Subsistence Management
1011 E. Tudor Road, MS-121 Anchorage, AK 99503-6199 Subsistence@fws.gov

FSB 2017 – 2019 Fisheries Proposals

Dear Federal Subsistence Board / Southcentral Regional Advisory Council;

Kenai River Sportfishing Association (KRSA) is a 501 c 3 charitable non-profit organization, with a focus on fishery conservation for the Kenai River, greater Cook Inlet and Alaska. We provide these comments on the FSB 2017 – 2019 Fisheries Proposals, specifically those for the Cook Inlet region, FP17-06 – 10.

KRSA supports fisheries management regulations that accomplish two objectives: 1) provide meaningful access and opportunity to subsistence, personal use, sport and commercial fisheries, and 2) follow necessary fishery conservation principles. With respect to time, area, methods and means for subsistence, personal use and sport fisheries within the Kenai River drainage, we support the use of selective gear to harvest fish, such as rod and reel and dip nets. We do not support the use of non- selective gear, such as gillnets, to harvest fish within the Kenai River drainage.

The reason is that selective gear, as opposed to non-selective gear, allows for the live release and high probability of survival for fish that are designated for non-retention for conservation purposes, such as the continued viability of specific fish stocks. Slot limits for fish stocks in fisheries management are similar to hunting restrictions, such as antler restrictions for moose (spike or fork antler, or 50-inch spread, or at least three brow tines on one antler). Judicial review on antler restrictions for subsistence moose hunting determined that a meaningful subsistence priority is not absolute and must be reasonably balanced with conservation issues and other uses.

Conservation based fishery regulations on the Kenai River include non-retention of slot-limit Chinook and of rainbow trout / Dolly Varden over 18 inches, for waters below Skilak Lake. Above Skilak Lake there is no retention of Chinook or rainbow trout / Dolly Varden over 16 inches. On the Kasilof River such regulations include the non-retention of Steelhead Trout.

As such, KRSA supports the adoption of FP17 – 06 and FP17 – 07, which would remove gillnets as a method and means for gear in subsistence fisheries on the Kenai River. We concur with the fisheries conservation rationale as outlined in these respective proposals for this change. FP17-08 is a complex proposal that seeks to both streamline and change regulations, and we have no comment on each of the subcomponents at this time.

FP17-09 and FP17-10 seek to extend the window of time for use of a community gillnet (NTC) on the

Kasilof and Kenai Rivers respectively. On the Kasilof River, the proposal seeks to change the use of a community gillnet from July 1 – July 31 to May 1 – November 15. We do not support the proposed expansion of the time frame due to fishery conservation concerns relating to the retention of Chinook salmon and Steelhead Trout during the expanded timeframe. On the Kenai River, the proposal seeks to change the use of a community gillnet from June 15 – August 15 to May 1 – November 15. We do not support the proposed expansion of time frame due to fishery conservation concerns relating to the retention of Chinook salmon, rainbow trout and Dolly Varden. The rationale of the fishery conservation concern is clearly outlined in the USFWS proposals FP17 – 07 and FP17 – 08.

We encourage both the Southcentral RAC and the Federal Subsistence Board remove the use of gillnets as gear for subsistence fisheries on the Kenai River, and to keep in place the time frame for its use on the Kasilof River. The justification is based on well documented fishery conservation issues that have been articulated thoroughly by both federal and state fishery professionals.

Thank you for your time and consideration on this matter.

Respectfully,

Ricky Gease, Executive Director
Kenai River Sportfishing Association

To the Members of the Southcentral Regional Advisory Council: Re:

Opposition to FP17-10

As a full time resident of Cooper Landing, I am writing to oppose the approval of the Proposal to Change Federal Subsistence Regulations FP17-10. This proposal by the Ninilchik Traditional Council to operate a community gillnet on the Kenai River for the harvest of all salmon species and retention of Dolly Varden and Rainbow Trout less than 18 inches violates the requirements of ANILCA §802. The use of a non-selective fishing tool like a gillnet in the Kenai River is not:

1. "consistent with sound management principles and the conservation of health populations of fish and wildlife"
2. "consistent with management of fish and wildlife in accordance with recognized scientific principles". (ANILCA §802)

In addition, FP17-10 would also violate section §815 of ANILCA in that a gillnet

> "permits the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the healthy populations". (ANILCA §815)

Finally, FP17-10 violates ANILCA §801, subsection (4):

"In order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary . . . **to protect and provide the opportunity for continued subsistence uses on the public land by Native and non-Native rural residents." (**ANILCA §801, subsection (4))

Any decision by the Board that violates ANILCA and **threatens the healthy populations of fish in the Kenai River** aggrieves our priority, as subsistence users in Cooper Landing, to the continued use of these fish to maintain a subsistence tradition and lifestyle.

Sincerely, Kathryn L. Recken

19567 Rusty's Way
PO Box 747
Cooper Landing, AK 99572 krecken@gmail.com

Mckinney, Kayla <kayla_mckinney@fws.gov>

Fwd: Opposition to FP 17-10

2 messages

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:28 PM
To: Gene Peltola <gene_peltola@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Amee Howard <amee_howard@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message ---------- From: **Phil Weber** <philphc@hotmail.com> Date: Tue, May 24, 2016 at 3:15 PM Subject: Opposition to FP 17-10
To: "subsistence@fws.gov" <subsistence@fws.gov>

I am a qualified federal subsistence user. I am strongly opposed Proposal FP 17-10 "Fish and Shellfish Proposal 2016 Kenai River". This proposal will allow for the interception of salmon species for which I am qualified to subsistence fish thus reducing the amount of salmon that I will have access to. In addition, this proposal will not ensure the conservation of rainbow trout and dolly varden from gillnet fishing. And the proposal will cause damage to the fragile riparian habitat along the shores of the Kenai River.

Phil Weber PO

Box 738

Cooper Landing, AK 99572

Virus-free. www.avast.com

--
OSM is in receipt of your comments.

Thank you

AK Subsistence, FW7 <subsistence@fws.gov> Thu, May 26, 2016 at 1:30 PM
To: Gene Peltola <gene_peltola@fws.gov>, Stewart Cogswell <stewart_cogswell@fws.gov>, Theo Matuskowitz <theo_matuskowitz@fws.gov>, Amee Howard <amee_howard@fws.gov>, George Pappas <george_pappas@fws.gov>, Jennifer Hardin <jennifer_hardin@fws.gov>, Kayla Mckinney <kayla_mckinney@fws.gov>

---------- Forwarded message
---------- From: <rebew@arctic.net>
Date: Tue, May 24, 2016 at 3:21 PM
Subject: Opposition to FP 17-10
To: subsistence@fws.gov

I am a qualified federal subsistence user. I am strongly opposed Proposal FP 17-10 "Fish and Shellfish Proposal 2016 Kenai River". This proposal will allow for the interception of salmon species for which I am qualified to subsistence fish thus reducing the amount of salmon that I will have access to. In addition, this proposal will not ensure the conservation of rainbow trout and dolly varden from gillnet fishing. And the proposal will cause damage to the fragile riparian habitat along the shores of the Kenai River.

Janet Bentley Weber
PO Box 738
Cooper Landing, AK 99572

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OSM is in receipt of your comments.

Thank you

May 22, 2016

Comment on
FP17-08 + 09

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

Dear Theo,

I am opposed to proposal FP17-07, Nnilchik's proposal to place a gill net across the Kenai River as well as FP17-08 that restricts when & where a person may take late run Chinook. In addition, I am opposed to proposal FP17-09 that requests that only residents of Nenilchik may harvest salmon, with a gill net on the Kasilof and Kenai Rivers. These proposals go against conservation efforts to maintain a healthy number of salmon for future generations on these rivers.

As a member of the Cooper Landing Community for the last twelve years I am grateful for the ability to subsistence fish through traditional means using rod and reel and dip net because these methods prove that we can maintain and conserve the Kenai River for salmon.

Thank you for the opportunity to have a voice in continuing to protect conservation efforts as well as subsistence fishing rights on the Kenai River.

Gratefully,
Joyce Koppert

Appendix A – State of Alaska Sustainable Salmon Fisheries Policy

5 AAC 39.222. Policy for the management of sustainable salmon fisheries

(a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

(1) while, in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

(2) in formulating fishery management plans designed to achieve maximum or optimum salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;

(3) to effectively assure sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

(1) wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the

effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

(C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;

(D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;

(E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;

(F) salmon escapement and harvest management decisions should be made in a manner that protects nontarget salmon stocks or species;

(G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;

(H) salmon abundance trends should be monitored and considered in harvest management decisions;

(3) effective management systems should be established and applied to regulate human activities that affect salmon as follows:

(A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;

(B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;

(C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for by management plans or by application of the board's allocation criteria;

(D) management agencies should have clear authority in statute and regulation to

(i) control all sources of fishing mortality on salmon;

(ii) protect salmon habitats and control nonfishing sources of mortality;

(E) management programs should be effective in

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(G) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;

(H) the board will work, within the limits of its authority, to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized;

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;

(J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for sustainable management of existing salmon fisheries and wild salmon stocks;

(K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure sustainable management of wild salmon stocks;

(L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;

(M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;

(P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:

(A) effective mechanisms for dispute resolution should be developed and used;

(B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;

(C) the board's regulatory management and allocation decisions will be made in an open process with public involvement;

(D) an understanding of the proportion of mortality inflicted on each salmon stock by each user

group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including AS 16.05.251 (e) and AS 16.05.258 ; in the absence of a regulatory management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;

(E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

(A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;

(iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource;

(v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

(1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy salmon stocks and sustainable salmon fisheries;

(D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the

(i) identification of a new fishery or expanding fishery;

(ii) identification of any salmon stocks, or populations within stocks, that present a concern

related to yield, management, or conservation; and

(iii) description of management and research options to address salmon stock or habitat concerns;

(2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize the adverse effects on salmon habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;

(D) prevent overfishing; and

(E) provide conservation and management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource;

(3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will, as appropriate, amend or develop salmon fishery management plans to address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including

(A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;

(B) identification of salmon stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;

(D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; and

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority

that impacts the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;

(2) "allocation criteria" means the factors set out in AS 16.05.251 (e) considered by the board as appropriate to particular allocation decisions under 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007;

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(4) "burden of conservation" means the restrictions imposed by the board or department upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;

(5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time of most salmon species;

(6) "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;

(7) "depleted salmon stock" means a salmon stock for which there is a conservation concern;

(8) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;

(9) "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;

(10) "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;

(11) "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;

(12) "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;

(13) "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;

(14) "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to

result in, impacts leading to yield, management, or conservation concerns;

(15) "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

(16) "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;

(17) "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;

(18) "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(19) "inriver run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;

(20) "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced salmon stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;

(21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG, BEG, OEG, or other specified management objectives for the fishery; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(23) "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;

(24) "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a nonconsumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;

(28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that

are expressed physically, such as body size and length at age;

(29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;

(30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;

(31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;

(32) "salmon" means the five wild anadromous semelparous Pacific salmon species Oncorhynchus sp., except steelhead and cutthroat trout, native to Alaska as follows:

(A) Chinook or king salmon (O. tschawytscha);

(B) sockeye or red salmon (O. nerka);

(C) coho or silver salmon (O. kisutch);

(D) pink or humpback salmon (O. gorbuscha); and

(E) chum or dog salmon (O. keta);

(33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;

(34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;

(35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated or managed for; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board; the SEG will be developed from the best available biological information; and should be scientifically defensible on the basis of that information; the SEG will be determined by the department and will take into account data uncertainty and be stated as either a "SEG range" or "lower bound SEG"; the department will seek to maintain escapements within the bounds of the SEG range or above the level of a lower bound SEG;

(37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

(40) "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;

(41) "yield" means the number or weight of salmon harvested in a particular year or season from a stock;

(42) "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;

(43) "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time;

(44) "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

History: Eff. 9/30/2000, Register 155; am 11/16/2000, Register 156; am 6/22/2001, Register 158; am 6/10/2010, Register 194

Authority: AS 16.05.251

Appendix B – 2002 Delegation of Authority Letter

Federal Subsistence Board

3601 C Street, Suite 1030
Anchorage, Alaska 99503

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

FOREST SERVICE

MAY - 3 2002

FWS/OSM/C:/SonnevilInSeason

Mr. Gary Sonnevil, Project Leader
U.S. Fish and Wildlife Service
Kenai Fishery Resources Office
43655 Kalifornski Road
Kenai, Alaska 99611

Dear Mr. Sonnevil:

This letter delegates specific regulatory authority from the Federal Subsistence Board to you as Project Leader of the Kenai Fishery Resources Office to issue special actions when necessary to assure the conservation of healthy fish stocks and to provide for subsistence uses of fish in Federal waters subject to ANILCA Title VIII (Federal waters) in the Cook Inlet Area.

Overview

Federal managers are responsible for local management of subsistence fishing by qualified rural residents in Federal waters; this includes the authority to restrict all uses in Federal waters if necessary to conserve healthy fish stocks or to provide for subsistence uses in Federal waters. State managers are responsible for in-season management of State subsistence, commercial, recreational, and personal use fisheries in all waters.

It is the intent of the Federal Subsistence Board that subsistence fisheries management by Federal officials be coordinated with the Alaska Department of Fish and Game and involve Regional Advisory Council representatives to conserve healthy fish stocks while providing for subsistence uses. Federal managers are expected to cooperate with State managers and minimize disruption to resource users and existing agency programs, as agreed to under the Interim Memorandum of Agreement for Coordinated Fisheries and Wildlife Management for Subsistence Uses on Federal Public Lands in Alaska.

Page 1 of 5

000023

FEDERAL FISHERIES MANAGEMENT
DELEGATION OF AUTHORITY

1. **Delegation:** The Project Leader of the Kenai Fishery Resources Office is hereby delegated authority to issue emergency regulations (special actions) affecting fisheries in Federal waters as outlined under **3. Scope of Delegation**.

2. **Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which states: "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(d) and 50 CFR 100.19(d). 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 waters to non-subsistence 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 fish stocks or to continue subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations, shall be directed to the Federal Subsistence Board.

The Federal waters subject to this delegated authority are those within the Cook Inlet Area (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). The Project Leader will coordinate all local fishery decisions with all affected Federal land managers.

4. **Effective Period:** This delegation of authority is effective until superseded or rescinded.

5. **Criteria for Review of Proposed Special Actions:** The Project Leader will use the following considerations to determine the appropriate course of action when reviewing proposed special actions.

   1. Does the proposed special action fall within the geographic and regulatory scope of delegation?

2. Does the proposed special action need to be implemented immediately as a special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the annual regulatory cycle?

3. Does the supporting information in the proposed special action substantiate the need for the action?

4. Are the assertions in the proposed special action confirmed by available current biological information and/or by other affected subsistence users?

5. Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?

6. Is the proposed special action likely to achieve the expected results?

7. Have the perspectives of ADF&G managers and Regional Advisory Council representatives been fully considered in the review of the proposed special action?

8. Have the potential impacts of the proposed special action on all affected subsistence users within the drainage been considered?

9. Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?

10. After evaluating all information and weighing the merits of the special action against other actions, including no action, is the special action reasonable, rational and responsible?

6. **Guidelines for Delegation:**

1. The Project Leader 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.

2. The Project Leader will review special action requests or situations that may require a special action and all supporting information to determine (1) if the request/situation falls within the scope of authority, (2) if significant conservation problems or subsistence harvest concerns are indicated, and (3) what the consequences of taking an action may be on potentially affected subsistence users and non-subsistence users. Requests not within the delegated authority of the Project Leader will be forwarded to the Federal Subsistence Board for consideration. The Project Leader will keep a record of all special action requests and their disposition.

3. The Project Leader will immediately notify the Federal Subsistence Board through Tom Boyd, Assistant Regional Director for Subsistence, U.S. Fish and Wildlife Service, and notify/consult with local ADF&G managers, Regional Advisory Council members, and other affected Federal conservation unit managers concerning special actions being considered.

4. The Project Leader will issue timely decisions. Users, affected State and Federal managers, law enforcement personnel, and Regional Advisory Council representatives should be notified before the effective date/time of decisions. If an action is to supersede a State action not yet in effect, the decision will be communicated to affected users, State and Federal managers, and Regional Advisory Council representatives at least 6 hours before the State action would be effective. If a decision is to take no action, the requestor will be notified immediately.

5. There may be unusual circumstances under which the Project Leader will determine that he/she should not exercise the authority delegated, but instead request that the Federal Subsistence Board should handle the special action request. In a similar vein, the Federal Subsistence Board may determine that a special action request should not be handled by the delegated official but by the Board itself (i.e. rescind the delegated authority for that specific action only). These options should be exercised judiciously and may only be initiated where sufficient time allows. Such decisions should not be considered where immediate management actions are necessary for fisheries conservation purposes.

7. Reporting: The Project Leader must provide to the Federal Subsistence Board 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.

8. Support Services: Administrative support for local fisheries management activities of the Project Leader will be provided by the Office of Subsistence Management, U. S. Fish and Wildlife Service, Department of the Interior.

This delegation of authority will provide subsistence users in the region a local point of contact and will facilitate a local liaison with State managers and other user groups. Timely local management decisions optimize the opportunity for users to harvest fish when and where they are available, without jeopardizing spawning escapement goals for specific stocks.

Should you have any questions about this delegation of authority, please feel free to contact Mr. Thomas H. Boyd, Assistant Regional Director for Subsistence, U. S. Fish and Wildlife Service, Office of Subsistence Management at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,

Mitch Demientieff, Chair
Federal Subsistence Board

Attachment: Map of the Cook Inlet Area

cc: Members of the Federal Subsistence Board
Mr. Ralph Lohse, Chair, Southcentral Alaska Subsistence Regional Advisory Council
Ms. Clare Swan, Member, Southcentral Alaska Subsistence Regional Advisory Council
Ms. Deb Liggett, Superintendent, Lake Clark/Katmai National Parks and Preserves
Mr. Steve Martin, Superintendent, Denali National Park and Preserve
Mr. Gary Candelaria, Superintendent, Wrangell-St. Elias National Park and Preserve
Mr. Robin West, Manager, Kenai National Wildlife Refuge
Mr. Greg Siekaniec, Manager, Alaska Maritime National Wildlife Refuge
Mr. Dave Gibbens, Chugach Forest Supervisor
Mr. Michael Kania, Seward District Ranger
Mr. Stanley Pruszenski, Assistant Regional Director - Law Enforcement, U.S. Fish and Wildlife Service
Mr. Frank Rue, Commissioner, Alaska Department of Fish and Game
Mr. Thomas H. Boyd, FWS Office of Subsistence Management

Appendix C – 2004 Reaffirmation of Delegated Authority Letter

United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
Office of Subsistence Management
3601 C Street, Suite 1030
Anchorage, Alaska 99503

FWS/OSM/delegation

MAY 17 2004

Mr. Gary M. Sonnevil, Project Leader
U.S. Fish and Wildlife Service
Kenai Fishery Resources Office
P.O. Box 1670
Kenai, Alaska 99611

Dear Mr. Sonnevil:

This letter is to reaffirm your in-season fishery management delegation from the Federal Subsistence Board. In the "original" 2002 delegation letter, it was noted that, "This delegation of authority is effective until superseded or rescinded."

For your easy reference, I am attaching another copy of the original delegation letter. The Federal Subsistence Board made the delegation of authority to your position, so in some cases the name on the original delegation letter may differ from the person currently in that position. Please share the delegation information with staff who will be assisting you during the fishing season.

Joint news releases are used when State and Federal in-season managers agree on a course of action. Routine special actions can be handled locally. On the news release format, please list your name as the "Local Contact for Media".

Please notify Rod Campbell (rod campbell@fws.gov or 786-3696) directly, if it is likely that an in-season special action/news release will generate far-reaching concerns and questions of the Federal Subsistence Board. If you have specific questions during the fishing season, please feel free to contact Rod.

Please provide an electronic copy of all special actions and news releases (Federal and joint State-Federal) to this office c/o Maureen Clark (maureen clark@fws.gov or 786-3953). Maureen will distribute these documents so that Federal Register requirements are met, news releases are posted on the Subsistence home page, and copies are provided to the Staff Committee, Federal

law enforcement staff, and requesting individuals from the media. Please notify Maureen when contacted by the media concerning subsistence fishery management actions.

Sincerely,

Thomas H. Boyd
Assistant Regional Director

Enclosures

DRAFT POLICY ON NONRURAL DETERMINATIONS

FEDERAL SUBSISTENCE BOARD
Adopted _____, 2017

PURPOSE

This policy clarifies the internal management of the Federal Subsistence Board (Board) and provides transparence to the public regarding the process of making or rescinding nonrural determinations of communities or areas for the purpose of identifying rural residents who may harvest fish and wildlife for subsistence uses on Federal public lands in Alaska. This policy is intended to clarify existing practices under the current statute and regulations. It does not create any right or benefit enforceable at law or in equity, against the United States, its agencies, officers, or employees, or any other person.

INTRODUCTION

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) declares that,

> the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence; the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses" (ANILCA Section 801).

Rural status provides the foundation for the subsistence priority on Federal public lands to help ensure the continuation of the subsistence way of life in Alaska. Prior to 2015, implementation of ANILCA Section 801 and rural determinations were based on criteria set forth in Subpart B of the Federal subsistence regulations.

In October 2009, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, directed the Board to review the process for rural determinations. On December 31, 2012, the Board initiated a public review of the rural determination process. That public process lasted nearly a year, producing 278 comments from individuals, 137 comments from members of Regional Advisory Councils (Councils), 37 comments from Alaska Native entities, and 25 comments from other entities (e.g., city and borough governments). Additionally, the Board engaged in government-to-government consultation with tribes and consultation with Alaska Native Claims Settlement Act (ANCSA) corporations. In general, the comments received indicated a broad dissatisfaction with the rural determination process. Among other comments, respondents indicated the aggregation criteria were perceived as arbitrary, the population thresholds were seen as inadequate to capture the reality of rural Alaska, and the decennial review was widely viewed to be unnecessary.

Based on this information, the Board held a public meeting on April 17, 2014 and decided to recommend a simplification of the process to the Secretaries of the Interior and Agriculture (Secretaries) to address rural status in the Federal Subsistence Management Program. The Board's recommended simplified process would eliminate the rural determination criteria from regulation and allows the Board to determine which areas or communities are nonrural in Alaska. All other communities or areas would, therefore, be considered "rural" in relation to the Federal subsistence priority in Alaska.

The Secretaries accepted the Board recommendation and published a Final Rule on November 4, 2015, revising the regulations governing the rural determination process for the Federal Subsistence Management Program in Alaska. The Secretaries removed specific rural determination guidelines and criteria, including requirements regarding population data, the aggregation of communities, and a decennial review. The final rule allowed the Board to make 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.

By using a comprehensive approach and not relying on set guidelines and criteria, this new process will enable the Board to be more flexible in making decisions that take into account regional differences found throughout the State. This will also allow for greater input from the Councils, Federally recognized tribes of Alaska, Alaska Native Corporations, and the public in making nonrural determinations by incorporating the nonrural determination process into the subsistence regulatory schedule which has established comment periods and will allow for multiple opportunities for input. Simultaneously with the Final Rule, the Board published a Direct Final Rule (80 FR 68245; Nov. 4, 2015) (**Appendix B**) establishing the list of nonrural communities, those communities not subject to the Federal subsistence priority on Federal public lands, based on the list that predated the 2007 Final Rule (72 FR 25688; May 7, 2007).

As of November 4, 2015, the Board determined in accordance with 36 CFR 242.15 and 50 CFR 100.15 that the following communities or Census-designated Places (CDPs)[1] are nonrural: Fairbanks North Star Borough; Homer area – including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area – including Juneau, West Juneau, and Douglas; Kenai area – including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area – including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area – including Seward and Moose Pass; Valdez; and Wasilla/Palmer area – including Wasilla, Palmer, Sutton, Big Lake, Houston, and Bodenberg

[1] Census Designated Place (CDP) is defined by the Federal Census Bureau as the statistical counterpart of incorporated places, delineated to provide data for settled concentrations of populations identifiable by name but not legally incorporated under the laws of the state in which they are located. CDPs are delineated cooperatively by state and local officials and the Census Bureau, following Census Bureau guidelines.

Butte (36 CFR 242.23 and 50 CFR 100.23). All other communities and areas in Alaska are, therefore, rural.

BOARD AUTHORITIES

- ANILCA 16 U.S.C. 3101, 3126.
- Administrative Procedures Act (APA), 5 U.S.C. 551-559
- 36 CFR 242.15; 50 CFR 100.15
- 36 CFR 242.18(a); 50 CFR 100.18(a)
- 36 CFR 242.23; 50 CFR 100.23

POLICY

In accordance with the Administrative Procedures Act (APA), Federal rulemaking undertaken by the Federal Subsistence Management Program requires that any individual, organization, or community be given the opportunity to submit proposals to change Federal regulations. The Board will only address changes to the nonrural status of communities or areas when requested in a proposal. This policy describes the Board's administrative process for addressing proposals to change the nonrural status of a community or area by outlining proposal requirements and submission, identifying a process schedule and general process timeline, and outlining Board decision making when acting on such proposals.

SECTION A: Submitting a Proposal

Proponents must submit a written proposal in accordance with the guidance provided in the same Federal Register notice that includes a call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations. This notice is published in even-numbered years.

SECTION B: Requirements for Proposals

Making a Nonrural Determination

Proposals can be submitted to the Board to make a nonrural determination for a community or area. It is the proponent's responsibility to provide the Board with substantive narrative evidence to support their rationale of why the proposed nonrural determination should be considered**.** Proposals seeking a nonrural determination must also include the basic requirements and meet the threshold requirements outlined below.

Basic Requirements

All proposals must contain the following information:

- Full name and mailing address of the proponent;
- A statement describing the proposed nonrural determination action requested;
- A detailed description of the community or area under consideration, including any current boundaries, borders, or distinguishing landmarks, so as to identify which Alaska residents would be affected by the change in nonrural status;
- Rationale and supporting evidence (law, policy, factors, or guidance) for the Board to consider in determining the nonrural status of a community or area;

- A detailed statement of the facts that illustrate that the community or area is nonrural or rural using the rationale and supporting evidence stated above; and
- Any additional information supporting the proposed change.

Threshold Requirements

In addition to the basic requirements outlined above, the following threshold requirements apply. The Board shall only accept a proposal to designate a community or area as nonrural, if the Board determines the proposal meets the following threshold requirements:

- The proposal is based upon information not previously considered by the Board;
- The proposal provides substantive rationale and supporting evidence for determining the nonrural status of a community or area that takes into consideration the unique qualities of the region; and
- The proposal provides substantive information that supports the proponent's rationale that a community or area is nonrural.

The Board shall carefully weigh the initial recommendation from the affected Regional Advisory Council(s) when determining whether the proposal satisfies the threshold requirements outlined above. If the Board determines the proposal does not satisfy the threshold requirements, the proponent will be notified in writing. If it is determined the proposal does meet the threshold, it shall be considered in accordance with the process schedule and timeline set forth below.

Limitation on Submission of Proposals Seeking Nonrural Determinations

The Board is aware of the burden placed on rural communities and areas in defending their rural status. If the rural status of a community or area is maintained after a proposal to change its status to nonrural is rejected, then no proposals to change the rural status of that community or area shall be accepted until the next proposal cycle. If a new proposal is submitted during the next proposal cycle, then it must address a demonstrated change that was not previously considered by the Board. Additionally, the following considerations apply to resubmitting proposals to change a community's status from rural to nonrural:

- Whether or not there has been a "demonstrated change" to the rural identity of a community or area is the burden of the proponent to illustrate by a preponderance of the evidence;

- Many characteristics, individually or in combination, may constitute a "demonstrated change" including, but not limited to, changes in population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, or degree of remoteness and isolation; and

- The Board's most recent decision on the nonrural status of a community or area will be the baseline for any future proposals for that community or area, thus, a

"demonstrated change", as referred to in this portion of the process, must occur after the Board's most recent decision.

Rescinding a Nonrural Determination

For proposals seeking to have the Board rescind a nonrural determination, it is the proponent's responsibility to provide the Board with substantive narrative evidence to support their rationale of why the nonrural determination should be rescinded. Proposals seeking to have the Board rescind a nonrural determination must also include the basic requirements and meet the threshold requirements outlined below.

Basic Requirements

All proposals must contain the following information:

- Full name and mailing address of the proponent;
- A statement describing the proposed nonrural determination action requested;
- A description of the community or area considered as nonrural, including any current boundaries, borders, or distinguishing landmarks, so as to identify what Alaska residents would be affected by the change in rural status;
- Rationale and supporting evidence (law, policy, factors, or guidance) for the Board to consider in determining the nonrural status of a community or area;
- A detailed statement of the facts that illustrate that the community or area is rural using the rationale stated above; and
- Any additional information supporting the proposed change.

Threshold Requirements

In addition to the baseline information outlined above, the following threshold requirements apply. The Board shall only accept a proposal to rescind a nonrural determination, if the Board determines the proposal meets the following threshold requirements:

- The proposal is based upon information not previously considered by the Board;
- The proposal demonstrates that the information used and interpreted by the Board in designating the community as nonrural has changed since the original determination was made;
- The proposal provides substantive rationale and supporting evidence for determining the nonrural status of a community or area that takes into consideration the unique qualities of the region; and
- The proposal provides substantive information that supports the provided rationale that a community or area is rural instead of nonrural.

The Board shall determine whether the proposal satisfies the threshold requirements outlined above after considering the recommendation(s) from the affected Regional Advisory Council(s). If the Board determines the proposal does not satisfy the threshold requirements, the proponent will be notified in writing. If it is determined the proposal

does meet the threshold, it shall be considered in accordance with the process schedule and timeline set forth below.

SECTION C: Decision Making

The Board will make 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 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;
- Engage in consultation with affected ANCSA corporations;
- Have the discretion to clarify the geographical extent of the area relevant to the nonrural determination; and
- Implement a final decision on a nonrural determination in compliance with the APA.

Regional Advisory Council Recommendations

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.

SECTION D: Process Schedule

As authorized in 36 CFR 242.18(a) and 50 CFR 100.18(a), "The Board may establish a rotating schedule for accepting proposals on various sections of subpart C or D regulations

over a period of years." To ensure meaningful input from the Councils and allow opportunities for tribal and ANCSA corporation consultation and public comment, the Board will only accept nonrural determination proposals every other year in even-numbered years in conjunction with the call for proposals to revise subsistence taking of fish and shellfish regulations, and nonrural determinations. If accepted, the proposal will be deliberated during the regulatory Board meeting in the next fisheries regulatory cycle. This schedule creates a three-year period for proposal submission, review, analysis, Regional Advisory Council input, tribal and ANCSA corporation consultation, public comment, and Board deliberation and decision.

SECTION E: General Process Timeline

Outlined in Table 1 and Table 2

Table 1. General Process Timeline

1. January to March (Even Year) – A proposed rule is published in the Federal Register with the call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations.
2. **April to July (Even Year)** – Staff will verify that proposals include the basic requirements and can be legally addressed by the Federal Subsistence Program. If the proposal is incomplete or cannot be addressed by the Federal Subsistence Program, the proponent will be notified in writing. Additionally for verified proposals, tribal consultation and ANCSA corporation consultation opportunities will be provided during this time.
3. August to November (Even Year) –Affected Regional Advisory Council(s) reviews the verified proposals and provides a preliminary recommendation for the Board. The Council preliminary recommendation may include: relevant regional characteristics; whether or not the Council supports the proposal; and if, in the Council's opinion, the proposal meets the threshold requirements with justification. This action shall occur at the affected Council's fall meeting on the record.
4. November to December (Even Year) – The Interagency Staff Committee (ISC) shall provide comments on each verified proposal. Staff shall organize nonrural determination proposal presentations that include the original proposal, the Council preliminary recommendation, tribal and ANCSA consultation comments, and the ISC comments.
5. **January (Odd Year)** – At the Board's public meeting, Staff will present the proposals, and the Board will determine if the threshold requirements have been met. If the Board determines the proposal does not satisfy the threshold requirements, the proponent will be notified in writing. If it is determined the proposal does meet the threshold requirements, the Board will direct staff to prepare a full analysis according to established guidelines and address the proposal in accordance with the process schedule and timeline set forth below.
6. February (Odd Year) to July (Even Year) (18 months) – For proposals determined to satisfy the threshold requirements, the Board will conduct public hearings in the communities that may be affected should the proposal be adopted by the Board. During this time period, independent of the fall Council meetings, interested tribes may request formal government-to-government consultation and ANCSA corporations may also request consultation on the nonrural determination proposals.
7. August to November (Even Year) –The Council(s) shall provide recommendations at their fall meetings and the ISC shall provide comments on the draft nonrural determination analyses.
8. November to December (Even Year) – Staff incorporates Council recommendations and ISC comments into the draft nonrural determination analyses for the Board.
9. January (Odd Year) – At the Board's Fisheries Regulatory meeting, staff present the nonrural determination analyses to the Board. The Board adopts, adopts with modification, or rejects the proposals regarding nonrural determinations.

Table 2. General Process Timeline Comparison with other Cycles

Wildlife & FRMP Cycle	***Fishery Cycle***	Dates / ***Council Cycle***	**Board or Activity**	***Proposed Nonrural Determination Cycle***			
				Even Years			
	Fishery *Review Cycle*	***January***	***Board FRMP Work Session***	*1*	Nonrural Proposed Rule		
		February *March*	Fishery Proposed Rule Jan- Mar				
		April	**Board Meeting**	*2*	Proposal verification, Tribal and ANCSA consultation		
		July					
		August *September* *October* *November*	*Fishery Proposal Review*	***3***	Proposal Threshold Review by Councils		
		December		*4*	Finalize Threshold presentations for the Board		
Wildlife & FRMP *Review Cycle*		***January***	**Board Meeting**	***5***	***Odd Years - Board determines which proposals meet the threshold requirements***		
		February *March*	Wildlife Proposed Rule Jan - Mar	*6*	Odd to Even Years (18 months) - Public Hearings, government-government consultation with the tribes, ANCSA Corporation Consultation, and writing of Nonrural Determination Analyses for proposals that meet the threshold requirements as determined by the Board		
		April *July*					
		August *September* *October* *November*	*Wildlife Proposal & FRMP Project Review*				
		December					
	Fishery *Review Cycle*	***January***	***Board FRMP Work Session***			***Even Years***	
		February *March*	Fishery Proposed Rule Jan- Mar			*1*	Nonrural Proposed Rule
		April	**Board Meeting**			*2*	Proposal verification
		July					
		August *September* *October* *November*	*Fishery Proposal Review*	***7***	Even Years Analysis Review	*3*	Proposal Threshold review by Councils
		December		*8*	Finalize Nonrural Determination Analyses	*4*	Finalize Threshold Presentations
		January	**Board Meeting**	***9***	***Odd Years – Final Board Decision***	***5***	***Odd Years – See 5 above***

SIGNATORIES

In WITNESS THEREOF, the parties hereto have executed this Policy as of the last date written below.

_____
Chair of the Federal Subsistence Board
Date:

_____
Regional Director
U.S. Fish and Wildlife Service
Date:

_____
Regional Forester
USDA Forest Service
Date:

_____
Regional Director
National Park Service
Date:

_____
State Director
Bureau of Land Management
Date:

_____
Regional Director
Bureau of Indian Affairs
Date:

_____
Member of the Federal Subsistence Board
Date:

_____
Member of the Federal Subsistence Board
Date:

Appendix A – Final Rule – Rural Determination Process

Federal Register / Vol. 80, No. 213 / Wednesday, November 4, 2015 / Rules and Regulations **68249**

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2014–0063; FXRS12610700000–156–FF07J00000; FBMS# 4500086287]

RIN 1018–BA62

Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Secretaries of Agriculture and the Interior are revising the regulations governing the rural determination process for the Federal Subsistence Management Program in Alaska. 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.

DATES: This rule is effective November 4, 2015.

ADDRESSES: This rule and public comments received on the proposed rule may be found on the Internet at *www.regulations.gov* at Docket No. FWS–R7–SM–2014–0063. Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management Web site (*https://www.doi.gov/subsistence*).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The program regulations have subsequently been amended a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, U.S. National Park Service;
- The Alaska State Director, U.S. Bureau of Land Management;
- The Alaska Regional Director, U.S. Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

Prior Rulemaking

On November 23, 1990 (55 FR 48877), the Board published a notice in the **Federal Register** explaining the proposed Federal process for making rural determinations, the criteria to be used, and the application of those criteria in preliminary determinations. On December 17, 1990, the Board adopted final rural and nonrural determinations, which were published on January 3, 1991 (56 FR 236). Final programmatic regulations were published on May 29, 1992, with only slight variations in the rural determination process (57 FR 22940). As a result of this rulemaking, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 require that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data.

Because some data from the 2000 census was not compiled and available until 2005, the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688).

Secretarial Review

On October 23, 2009, Secretary of the Interior Salazar announced the initiation of a Departmental review of the Federal Subsistence Management Program in Alaska; Secretary of Agriculture Vilsack later concurred with this course of action. The review focused on how the Program is meeting the purposes and subsistence provisions of Title VIII of ANILCA, and if the Program is serving rural subsistence users as envisioned when it began in the early 1990s.

On August 31, 2010, the Secretaries announced the findings of the review, which included several proposed administrative and regulatory reviews and/or revisions to strengthen the Program and make it more responsive to those who rely on it for their subsistence uses. One proposal called

for a review, with Council input, of the rural determination process and, if needed, recommendations for regulatory changes.

The Board met on January 20, 2012, to consider the Secretarial directive and the Councils' recommendations and review all public, Tribal, and Alaska Native Corporation comments on the initial review of the rural determination process. After discussion and deliberation, the Board voted unanimously to initiate a review of the rural determination process and the 2010 decennial review. Consequently, the Board found that it was in the public's best interest to extend the compliance date of its 2007 final rule (72 FR 25688; May 7, 2007) on rural determinations until after the review of the rural determination process and the decennial review were completed or in 5 years, whichever comes first. The Board published a final rule on March 1, 2012 (77 FR 12477), extending the compliance date.

The Board followed this action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporations input on the rural determination process.

Due to a lapse in appropriations on October 1, 2013, and the subsequent closure of the Federal Government, some of the preannounced public meetings and Tribal consultations to receive comments on the rural determination process during the closure were cancelled. The Board decided to extend the comment period to allow for the complete participation from the Councils, public, Tribes, and Corporations to address this issue (78 FR 66885; November 7, 2013).

The Councils were briefed on the Board's **Federal Register** documents during their winter 2013 meetings. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board.

The Secretaries, through the Board, also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process. Public testimony was recorded during these hearings. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process. The aggregation criteria were perceived as arbitrary. The current population thresholds were seen as inadequate to capture the reality of rural Alaska. Additionally, the decennial review was widely viewed to be unnecessary.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers 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. The Board would rely heavily on the recommendations of the Subsistence Regional Advisory Councils.

In summary, based on Council and public comments, Tribal and Alaska Native Corporation consultations, and briefing materials from the Office of Subsistence Management, the Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes. If adopted through the rulemaking process, the current regulations would be revised to remove specific guidelines, including requirements regarding population data, the aggregation of communities, and the decennial review, for making rural determinations.

Public Review and Comment

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination process in subpart B of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a public comment period, which closed on April 1, 2015. The Departments advertised the proposed rule by mail, radio, newspaper, and social media; comments were submitted via *www.regulations.gov* to Docket No. FWS–R7–SM–2014–0063. During that period, the Councils received public comments on the proposed rule and formulated recommendations to the Board for their respective regions. In addition, 10 separate public meetings were held throughout the State to receive public comments, and several government-to-government consultations addressed the proposed rule. The Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the Board's public work session of July, 28, 2015.

The 10 Councils provided the following comments and recommendations to the Board on the proposed rule:

Northwest Arctic Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Seward Peninsula Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Western Interior Alaska Regional Advisory Council—supported the proposed rule.

North Slope Subsistence Regional Advisory Council—unanimously supported the proposed rule as written. The Council stated the proposed rule will improve the process and fully supported an expanded role and inclusion of recommendations of the Councils when the Board makes nonrural determinations. The Council wants to be closely involved with the Board when the Board sets policies and criteria for how it makes nonrural determinations under the proposed rule if the rule is approved, and the Council passed a motion to write a letter requesting that the Board involve and consult with the Councils when developing criteria to make nonrural determinations, especially in subject matter that pertains to their specific rural characteristics and personality.

Bristol Bay Subsistence Regional Advisory Council—supported switching the focus of the process from rural to

nonrural determinations. They indicated there should be criteria for establishing what is nonrural to make determinations defensible and justifiable, including determinations of the carrying capacity of the area for sustainable harvest, and governmental entities should not determine what is spiritually and culturally important for a community. They supported eliminating the mandatory decennial; however, they requested a minimum time limit between requests (at least 3 years). They discussed deference and supported the idea but felt it did not go far enough.

Southcentral Alaska Subsistence Regional Advisory Council—supported the proposed rule with modification. They recommended deference be given to the Councils on the nonrural determinations.

Southeast Alaska Subsistence Regional Advisory Council—supported the proposed rule with modification. The Council recommended a modification to the language of the proposed rule: ''The Board determines, after considering the report and recommendations of the applicable regional advisory council, which areas or communities in Alaska are non-rural . . . .'' The Council stated that this modification is necessary to prevent the Board from adopting proposals contrary to the recommendation(s) of a Council and that this change would increase transparency and prevent rural communities from being subject to the whims of proponents.

Kodiak/Aleutians Subsistence Regional Advisory Council—is generally appreciative that the Board has recommended changes to the rural determination process and supported elimination of the decennial review. The Council recommended that the Board implement definitive guidelines for how the Board will make nonrural determinations to avoid subjective interpretations and determinations; that the language of the proposed rule be modified to require the Board to defer to the Councils and to base its justification for not giving deference on defined criteria to avoid ambiguous decisions; that the Board provide program staff with succinct direction for conducting analyses on any proposals to change a community's status from rural to nonrural; and that the Board develop written policies and guidelines for making nonrural determinations even if there is a lack of criteria in the regulations. The Council is concerned that proposals to change rural status in the region will be frequently submitted from people or entities from outside the region; the Council is opposed to proposals of this nature from outside its region and recommends that the Board develop guidelines and restrictions for the proposal process that the Board uses to reassess nonrural status.

Eastern Interior Alaska Subsistence Regional Advisory Council—opposed the proposed rule due to the lack of any guiding criteria to determine what is rural or nonrural. They stated the lack of criteria could serve to weaken the rural determination process. They supported greater involvement of the Councils in the Board's process to make rural/nonrural determinations. This Council was concerned about changes including increasing developments, access pressure on rural subsistence communities and resources, and social conflicts in the Eastern Interior region.

A total of 90 substantive comments were submitted from public meetings, letters, deliberations of the Councils, and those submitted via *www.regulations.gov.*

- 54 supported the proposed rule;
- 16 neither supported nor opposed the proposed rule;
- 7 supported the proposed rule with modifications;
- 7 neither supported nor opposed the proposed rule and suggested modifications; and
- 6 opposed the proposed rule.

Major comments from all sources are addressed below:

Comment: The Board should provide, in regulatory language, objective criteria, methods, or guidelines for making nonrural determinations.

Response: During the request for public comment (77 FR 77005; December 31, 2012), the overwhelming response from the public was dissatisfaction with the list of regulatory guidelines used to make rural determinations. The Board, at their April 17, 2014, public meeting, stated that if the Secretaries approved the recommended simplification of the rural determination process, the Board would make nonrural determinations using a comprehensive approach that considers, but is not limited to, 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. The Board also indicated that they would rely heavily on the recommendations of the Subsistence Regional Advisory Councils. The Board, at their July 28, 2015, public work session, directed that a subcommittee be established to draft options (policy or rulemaking) to address future rural determinations. The subcommittee options, once reviewed by the Board at their January 12, 2016, public meeting will be presented to the Councils for their review and recommendations.

Comment: The Board should give deference to the Regional Advisory Councils on nonrural determinations and place this provision in regulatory language.

Response: The Board expressed during its April 2014 and July 2015 meetings that it intends to rely heavily on the recommendations of the Councils and that Council input will be critical in addressing regional differences in the rural determination process. Because the Board has confirmed that Councils will have a meaningful and important role in the process, a change to the regulatory language is neither warranted nor necessary at the present time.

Comment: Establish a timeframe for how often proposed changes may be submitted.

Response: During previous public comment periods, the decennial review was widely viewed to be unnecessary, and the majority of comments expressed the opinion that there should not be a set timeframe used in this process. The Board has been supportive of eliminating a set timeframe to conduct nonrural determinations. However, this issue may be readdressed in the future if a majority of the Councils support the need to reestablish a nonrural review period.

Comment: Redefine ''rural'' to allow nonrural residents originally from rural areas to come home and participate in subsistence activities.

Response: ANILCA and its enacting regulations clearly state that you must be an Alaska resident of a rural area or community to take fish or wildlife on public lands. Any change to that definition is beyond the scope of this rulemaking.

Comment: Develop a policy for making nonrural determinations, including guidance on how to analyze proposed changes.

Response: The Board, at their July 28, 2015, public work session, directed that a subcommittee be established to draft options (policy or rulemaking) to address future rural determinations that, once completed, will be presented to the Councils for their review and recommendations.

Comment: Allow rural residents to harvest outside of the areas or communities of residence.

Response: All rural Alaskans may harvest fish and wildlife on public lands unless there is a customary and traditional use determination that identifies the specific community's or area's use of particular fish stocks or

wildlife populations or if there is a closure.

Rule Promulgation Process and Related Rulemaking

These final regulations reflect Secretarial review and consideration of Board and Council recommendations, Tribal and Alaska Native Corporations government-to-government tribal consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Elsewhere in today's **Federal Register** is a direct final rule by which the Board is revising the list of rural determinations in subpart C of 36 CFR part 242 and 50 CFR part 100. See ''Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List'' in Rules and Regulations.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Council meetings, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Secretaries' decision on any particular proposal for regulatory change (36 CFR 242.18(b) and 50 CFR 100.18(b)). Therefore, the Secretaries believe that sufficient public notice and opportunity for involvement have been given to affected persons regarding this decision. In addition, because the direct final rule that is mentioned above and is related to this final rule relieves restrictions for many Alaskans by allowing them to participate in the subsistence program activities, we believe that we have good cause, as required by 5 U.S.C. 553(d), to make this rule effective upon publication.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires February 29, 2016.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

Title VIII of ANILCA does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On March 23 and 24, 2015, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

Authority

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Secretaries amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart B—Program Structure

■ 2. In subpart B of 36 CFR part 242 and 50 CFR part 100, § ____.15 is revised to read as follows:

§ ____.15 Rural determination process.

(a) The Board determines which areas or communities in Alaska are nonrural. Current determinations are listed at § ____.23.

(b) All other communities and areas are, therefore, rural.

Dated: Oct. 28, 2015.

Sally Jewell,

Secretary of the Interior.

Dated: Sept. 30, 2015.

Beth G. Pendleton,

Regional Forester, USDA—Forest Service.

[FR Doc. 2015–27994 Filed 10–30–15; 8:45 am]

BILLING CODE 3410–11–4333–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2014–0904; FRL–9936–55–Region 4]

Air Plan Approval and Air Quality Designation; TN; Reasonably Available Control Measures and Redesignation for the TN Portion of the Chattanooga 1997 Annual $PM_{2.5}$ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the portion of a State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on October 15, 2009, that addresses reasonably available control measures (RACM), including reasonably available control technology (RACT), for the Tennessee portion of the Chattanooga, TN-GA-AL nonattainment area for the 1997 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) (hereinafter referred to as the ''Chattanooga TN-GA-AL Area'' or

Appendix B – Direct Final Rule – Nonrural List

Need for Correction

As published, the final regulations (TD 9728) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9728), that are subject to FR Doc. 2015–18816, are corrected as follows:

1. On page 45866, in the preamble, third column, last sentence of first full paragraph, the language ''rules, including section 706(d)(2) and section 706(d)(3).'' is corrected to read ''rules, including section 704(c), § 1.704–3(a)(6) (reverse section 704(c)), section 706(d)(2), and section 706(d)(3).''
2. On page 45868, in the preamble, first column, fourth line from the bottom of the column, the language ''interim closings of its books except at'' is corrected to read ''interim closing of its books except at''.
3. On page 45871, in the preamble, second column, third line from the bottom of the column, under paragraph heading ''*v. Deemed Timing of Variations,*'' the language ''taxable year was deemed to close at the'' is corrected to read ''taxable year was deemed to occur at the''.
4. On page 45873, in the preamble, third column, eighth line from the bottom of the column, the language ''taxable as of which the recipients of a'' is corrected to read ''taxable year as of which the recipients of a''.
5. On page 45874, second column, eight lines from the bottom of the column, the following sentence is added to the end of the paragraph: ''These final regulations do not override the application of section 704(c), including reverse section 704(c), and therefore the final regulations provide that the rules of section 706 do not apply in making allocations of book items upon a partnership revaluation.''
6. On page 45876, in the preamble, second column, under paragraph heading ''*Effective/Applicability Dates*'', fifth line of the first paragraph, the language ''of a special rule applicable to § 1.704–'' is corrected to read ''of a special rule applicable to § 1.706–''.
7. On page 45876, in the preamble, second column, under paragraph heading ''*Effective/Applicability Dates*'', third line of the second paragraph, the language ''regulations apply to the partnership'' is corrected to read ''regulations apply to partnership''.
8. On page 45876, in the preamble, third column, fourth line from the top of the column, the language ''that was formed prior to April 19, 2009.'' is corrected to read ''that was formed prior to April 14, 2009.''
9. On page 45877, first column, under paragraph heading ''*List of Subjects,*'' the fourth line, the language ''26 CFR part 2'' is corrected to read ''26 CFR part 602''.
10. On page 45883, third column, the first line of the signature block, the language ''Karen L. Schiller,'' is corrected to read ''Karen M. Schiller,''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2015–28014 Filed 11–3–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2015–0156; FXRS12610700000–156–FF07J00000; FBMS#4500086366]

RIN 1018–BA82

Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Direct final rule.

SUMMARY: This rule revises the list of nonrural areas in Alaska identified by the Federal Subsistence Board (Board). Only residents of areas that are rural are eligible to participate in the Federal Subsistence Management Program on public lands in Alaska. Based on a Secretarial review of the rural determination process, and the subsequent change in the regulations governing this process, the Board is revising the current nonrural determinations to the list that existed prior to 2007. Accordingly, the community of Saxman and the area of Prudhoe Bay will be removed from the nonrural list. The following areas continue to be nonrural, but their boundaries will return to their original borders: the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan area.

DATES: This rule is effective on December 21, 2015 unless we receive significant adverse comments on or before December 4, 2015.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2015–0156, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503–6199

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program (Program). This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only residents of areas identified as rural are eligible to participate in the Program on Federal public lands in Alaska. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively.

Consistent with these regulations, the Secretaries established a Federal Subsistence Board (Board) comprising Federal officials and public members to administer the Program. One of the Board's responsibilities is to determine which communities or areas of the State are rural or nonrural. The Secretaries also divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (Council). The Council members represent varied geographical, cultural, and user interests within each region. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a

meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska.

Related Rulemaking

Elsewhere in today's **Federal Register** is a final rule that sets forth a new process by which the Board will make rural determinations (''Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process''). Please see that rule for background information on how this new process was developed and the extensive Council and public input that was considered. A summary of that information follows:

Until promulgation of the rule mentioned above, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 had required that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data. Some data from the 2000 census was not compiled and available until 2005, so the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688), and changed the rural determination for several communities or areas in Alaska. These communities had 5 years following the date of publication to come into compliance.

The Board met on January 20, 2012, and, among other things, decided to extend the compliance date of its 2007 final rule on rural determinations. A final rule published March 1, 2012 (77 FR 12477), that extended the compliance date until either the rural determination process and findings review were completed or 5 years, whichever came first. The 2007 regulations have remained in titles 36 and 50 of the CFR unchanged since their effective date.

The Board followed that action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporations input on the rural determination process. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board. The Board also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process, and public testimony was recorded. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers 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. The Board would rely heavily on the recommendations of the Councils. The Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes.

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination process in subpart B of 36 CFR part 242 and 50 CFR part 100. Following a process that involved substantial Council and public input, the Departments published the final rule that may be found elsewhere in today's **Federal Register**.

Direct Final Rule

During that process, the Board went on to address a starting point for nonrural communities and areas. The May 7, 2007 (72 FR 25688), final rule was justified by the Board's January 3, 1991, notice (56 FR 236) adopting final rural and nonrural determinations and the final rule of May 7, 2002 (67 FR 30559), amending 36 CFR 242.23(a) and 50 CFR 100.23(a) to add the Kenai Peninsula communities (Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, Clam Gulch, Anchor Point, Homer, Kachemak City, Fritz Creek, Moose Pass, and Seward) to the list of areas determined to be nonrural. The 2007 rule added the village of Saxman and the area of Prudhoe Bay to the nonrural list and expanded the nonrural boundaries of the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan Area.

Since the 2007 final rule (72 FR 25688; May 7, 2007) was contentious, and so many comments were received objecting to the changes imposed by that rule, the Board has decided to return to the rural determinations prior to the 2007 final rule. The Board further decided that the most expedient method to enact their decisions was to publish this direct final rule adopting the pre-2007 nonrural determinations. As a result, the Board has determined the following areas to be nonrural: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez, and Wasilla area—including Palmer, Wasilla, Sutton, Big Lake, Houston, and Bodenberg Butte.

These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native Corporations government-to-government tribal consultations, and public comments. Based on concerns expressed by some of the Councils and members of the public, the Board went on to direct staff to develop options for the Board to consider and for presentation to the Councils, to address future nonrural determinations. These options will be presented to the Board and Chairs of each Council at the January 12, 2016, public meeting.

We are publishing this rule without a prior proposal because we view this action as an administrative action by the Federal Subsistence Board. This rule will be effective, as specified above in DATES, unless we receive significant

adverse comments on or before the deadline set forth in DATES. Significant adverse comments are comments that provide strong justifications why the rule should not be adopted or for changing the rule. If we receive significant adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. If no significant adverse comments are received, we will publish a document in the **Federal Register** confirming the effective date.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

In compliance with Administrative Procedure Act, the Board has provided extensive opportunity for public input and involvement in its efforts to improve the rural determination process as described in the related final rule published elsewhere in today's **Federal Register**. In addition, anyone with concerns about this rulemaking action may submit comments as specified in **DATES** and **ADDRESSES**.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires February 29, 2016.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more

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in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation on the rural determination process: commenting on changes under consideration for the existing regulations; engaging in dialogue at the Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Since 2007 multiple opportunities were provided by the Board for Federally recognized Tribes and Alaska Native Corporations to consult on the subject of rural determinations. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

Authority

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Secretaries amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, §__.23 is revised to read as follows:

§__.23 Rural determinations.

(a) The Board has determined all communities and areas to be rural in accordance with § __.15 except the following: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez, and Wasilla/Palmer area—including Wasilla, Palmer, Sutton, Big Lake, Houston, and Bodenberg Butte.

(b) You may obtain maps delineating the boundaries of nonrural areas from the U.S. Fish and Wildlife Service at the Alaska Regional Office address provided at 50 CFR 2.2(g), or on the Web at *https://www.doi.gov/subsistence.*

Dated: September 30, 2015.

Eugene R. Peltola, Jr.,

Assistant Regional Director, U.S. Fish and Wildlife Service, Acting Chair, Federal Subsistence Board.

Dated: September 30, 2015.

Thomas Whitford,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 2015–27996 Filed 10–30–15; 8:45 am]

BILLING CODE 3410–11–4333–15–P

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 1: Southeast	The Council has weighed in on urban/rural determinations quite extensively for at least a decade. The Council has strongly suggested at other times that it was due deference on urban/rural determinations following the logic that subsistence taking can only occur if a place is classified as rural, so really this is pretty close to an issue of taking.	The deference that is required in Section 805 of ANILCA is for the take of fish and wildlife. The Board discussed quite a bit about how important the Council is to this process in addition to verifying whether information that's been provided is accurate and whether the proposal and analyses accurately depict the unique characteristics of the region. The Council's input on meeting the threshold for analysis and the analysis itself will be critical to the decision-making process.
Region 1: Southeast	Please provide clarification on Saxman East.	The list of nonrural areas that are listed in the Federal Register are the pre-2007 list and Saxman East was included in that list. We understand that there's some questions about why that remains on the list and that's the origin of it. It was in the pre-2007 lists. We do believe that this can be handled administratively very much through the process that we've outlined in the Draft Policy.
Region 1: Southeast	Does the administrative process mean a 3-year process?	If the board adopts the policy and the timeline that's proposed, the full process would be a three-year process. As you can see on Page 18, again that's to provide multiple points of contact with the communities. We recognize the importance of rural and nonrural status in the program, so we want to provide enough time to have very thorough discussions of these matters and not try to short circuit public input on the process
Region 1: Southeast	We were provided with customary and traditional use area maps. These were valuable and would be very helpful in the determination of rural/nonrural designations.	That's the sort of information we'll be asking the Board to provide to us when we come to you with proposals that seek to change the status, the nonrural status, or to make a community nonrural. We'll be looking to the Council and others in the process to provide that feedback to us and that information.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 1: Southeast	Getting the maps for C&T findings was very useful and would be helpful in this process too. We will need to have that information for evaluating nonrural proposals but the other regions don't have them.	If we receive such a proposal and it moved to an analysis phase, we would absolutely be taking a very close at all the information we have about C&T and other traditional practices, cultural knowledge, all of this important information about subsistence way of life.
Region 1: Southeast	There should be a footnote defining the term "Census Designated Place" and how the borders of these are delineated. (PUBLIC)	
Region 1: Southeast	When a proposal is received by the FSB, the affected Federally recognized tribes should be copied immediately. Tribes should be given the opportunity to start strategizing from the onset instead of hearing about it later. (PUBLIC)	
Region 1: Southeast	Has the language moved us away from those population thresholds that we were concerned about in the past?	The regulations no longer include any set criteria for determining nonrural or rural status. Regarding whether or not a population could be something that the Board would consider when taking a look at thresholds, it is certainly one characteristic that the Board could look at, but it is not required to do so. The intent of changing the regulations was to provide more flexibility and to acknowledge that while population may be important, it's not the only characteristic of a community that needs to be considered when thinking about nonrural status or rural status.
Region 1: Southeast	We are not exactly clear what our role is at this point. Can we suggest changes to the policy or are we simply here to hear information on the policy?	We certainly want to hear your comments about the policy. If you think there are gaps in the policy, omissions, there are areas that are not clear; we're seeking that in feedback from you now.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 1: Southeast	It seems like we should be in the loop earlier than a year down the line.	Proposals would be accepted between January and March of an even year and then between August and November we would be taking those proposals out to the affected Regional Advisory Councils for their review and discussion of the proposals. Following that process and receiving recommendations from the Councils, then those proposals would go to the Federal Subsistence Board for the threshold determination. So the Board will be looking to comments from the Councils when making decisions about threshold determinations.
Region 1: Southeast	This could lead to a bunch of individuals submitting whereas if you have just the organizations or community may request changes of existing, it would streamline it. Where if I wanted to submit a proposal, I'd have to go to the local tribe or the city and have them do it. Then it becomes a local issue before it becomes anything else. Then you already have gone through the community process by having the individual bring the idea to the tribe or to the city.	
Region 2: Southcentral	We appreciate being asked for input but I'm sure we would prefer to have a little bit more weight than that. However, I'm sure the rural communities who felt like every cycle they had to justify continuing to stay rural appreciates these kinds of changes and that is a big improvement.	Once a proposal comes in it would go in front of the Councils as a proposal prior to a threshold determination by the Board, then if that goes further, if the Board determines that it has met it, then it will be fully analyzed, a number of public hearings will be held by Staff during -- for that full proposal process. During that time we'll be working with the proponent as well, and I think, too, that the Board came up or even Council can say you may want to look at this area for more data, even during that proposal stage. So it's

Region	Council Comments/Concerns	OSM Response during Council Meeting
		anticipated that there will be a lot of interaction with the proponent.
Region 2: Southcentral	If the Board determines that a proponent needs to include more data, does it go back into the next 3-year cycle?	I'm not sure I have an answer for you on that. This is a new process and we are trying to, as much as possible, predict the kinks or barriers we might come upon. On Page 17 there is a general process timeline, this lays out step by step within the timeframe or each step that would be taken.
Region 2: Southcentral	Will tribes have the opportunity to put proposals in to be considered as a community, in view of the recommendations and concerns that came about from the USDA's report on subsistence foods in Alaska and the impact it has on the Alaska Natives?	Lately, there has been a lot of discussion on what the definition of community is in Federal regulation, and there's no surprise that there isn't any one definition that we've been able to find. That is a topic that needs to be presented to the Board for them to discuss. This is a very complex question because there hasn't been an identified use of the term, community, within Federal regulations.
Region 2: Southcentral	Are our questions not going to be answered before the Board makes their decision in January?	The questions and comments from each Council will be put into a table and given to the Board so that they know what kind of feedback we got from each Council and that material will be available to them and we'll go over that when presenting the final policy to them and have that as part of the discussion. I can let you know that there are some Councils that have decided to write a letter to the Board as well as outlining their questions and comments and I do know that there are a few councils in the works, but we'll also be using

Region	Council Comments/Concerns	OSM Response during Council Meeting
		the admin record for this meeting and the transcripts to reiterate those questions for the Board during their January meeting.
Region 3: Kodiak-Aleutians	Appreciate the spirit of the Board's effort in trying to include some flexibility so that the determination process isn't bound by hard and fast rules such as a population threshold.	The intent of this section is as you stated, a way for us to try and corral or limit arbitrary re-submissions of changes because we knew that was a concern for the Kodiak-Aleutians Council.
Region 3: Kodiak-Aleutians	Concerned that there is very little guidance. Concerns that perhaps it is too flexible and too undefined.	Failure to comply with these guidelines would mean not only just the baseline guidelines, but also the very important threshold requirements. We built those in to give the Councils time to look at the proposals that would be going to the Board.
Region 3: Kodiak-Aleutians	Concerned that any individual can submit a proposal to change a designation of a community.	If the Board determines that the proposal has met the threshold warranting full analysis, the Councils will have input as well as multiple changes for public meetings and community input.
Region 3: Kodiak-Aleutians	When this RAC initially commented on this process, they were looking for a limitation that you had to at least be from the area or the community in question to even make a proposal; concerned that this is wide open.	The proposals will have to go to the Board to meet the thresholds and will only continue to the full analysis stage if the Board determines that it has met the threshold.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 3: Kodiak-Aleutians	Seen it more on the State Board of Fish and Board of Game that we have proposals impacting Kodiak that are coming from places like Fairbanks and that gets kind of frustrating; additional concerns voiced that if this goes into effect, we could have someone from Fairbanks saying Kodiak shouldn't be rural.	The proponent must provide rationale to the Board including shifts in the community, the addition, and subtraction of military installations, etc. The Board will look at the situation comprehensively.
Region 3: Kodiak-Aleutians	Concern that deference to the Councils does not apply.	
Region 3: Kodiak-Aleutians	The comments made during the Rural rulemaking process, Kodiak and Sitka had a difficult time maintaining rural status.	
Region 3: Kodiak-Aleutians	Believe that if there is to be a change within our region, then that suggestion or that recommendation should come from the RAC; people can come to the RAC for changes; believe that the RAC should be the first step in the process for changing what's rural and what's not rural because we live there and we know what's going on.	Limiting the public process will violate the APA.
Region 3: Kodiak-Aleutians	We have got to be able to come back to the RACs to be able to have the RAC input in determining what areas within our region should be designated as rural and nonrural.	
Region 3: Kodiak-Aleutians	If a proposal gets thrown out for a technicality or before the Board has considered the substance of the request or even if the Board has considered the substance of the request, what does it take for the proposal to come back into	

Region	Council Comments/Concerns	OSM Response during Council Meeting
	the process? If that is something that can happen the following year or two years later, then there is a concern.	
Region 3: Kodiak-Aleutians	We appreciate the opportunity for Council and public involvement, but that involvement takes a lot of time and resources and that's part of the concern because Kodiak has put in quite a lot of time and resources defending its rural status, we don't want to have to do that every 1 to 3 years.	
Region 3: Kodiak-Aleutians	If proposals had to come from the region that's going to be impacted or if they had to come through the associated RAC, I think that would help alleviate some of my concerns	
Region 3: Kodiak-Aleutians	Concern that every three years; someone from Fairbanks (or some other place) could put in a proposal to change Kodiak's rural status.	
Region 3: Kodiak-Aleutians	Would feel a lot more comfortable if any recommended change would have to come through a RAC than just any citizen out there; would like to see that any designated change would have to come through a RAC.	
Region 3: Kodiak-Aleutians	Would like to see the language around "demonstrated change" strengthened to better illustrate expectations of what those changes could be.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 3: Kodiak-Aleutians	Concern regarding the baseline conditions for the "demonstrated changes" requirement for proposals to the Board to change rural to nonrural status. What conditions (from what year) will be used as the baseline to illustrate a demonstrated change? What conditions will the Board use to make that comparison?	OSM recommends for the purpose of limiting the submission of repeat proposals to change from rural to nonrural that the Board consider the baseline conditions of the community or area in question be based on the conditions of each community or area on the day that the Final Rule for Rural Determinations was published in the Federal Register, Nov. 4, 2015.
Region 4: Bristol Bay	Could we end up in a situation where we never really quite say we're nonrural but essentially that would be the net effect, that we'd have such restrictive subsistence and other things because there's a pretty big heavy line drawn when you say nonrural	
Region 4: Bristol Bay	We already just having communities that are quite large that almost, or maybe even do, on some parts qualify as nonrural but they haven't gone there yet, and I'm thinking Ketchikan, Kodiak, and Bethel, but I'm trying to sort out in my mind, could we end up eventually being in kind of a charades saying that it's still rural but essentially it really isn't, and then what would be the biological consequences?	
Region 4: Bristol Bay	We've got, let's say, essentially sport regulations, but still call it subsistence to avoid the label on it, how do you see, say, Bethel grows another four or 5,000 people. I don't see how it would play out; say at that high population, exceeding the carrying capacity for the subsistence uses in the area. Has there been any talk about that?	There are a lot of safeguards, does it make the threshold for making a community that's growing and larger more difficult to make -- become nonrural, I can't say, because it has to go through this multiple levels of reviews, so I can't really say how much of a safeguard or how difficult it might be. It's really going to come down to what the analysis says, what the Councils say, what the public testimony says, because, again, that weighs heavily in the

Region	Council Comments/Concerns	OSM Response during Council Meeting
		Board's determination on a given proposal as well. So it would be very, very difficult to make a prediction. But again, population levels are the most obvious ones but there are lots of other factors that could come into play.
Region 4: Bristol Bay	I just kind of imagine a scenario, I'm thinking not only that we have increase human populations but maybe a subsequent…it's even carrying capacity.	
Region 4: Bristol Bay	You might have the pressure be so heavy on the subsistence resources, I could see a scenario possibly where they're still officially rural and utterly eliminated any sport or other non-subsistence opportunity and, yet, essentially what the regulations remaining on the table would be every bit as restrictive as typically sport use would be and that kind of -- you know, I do sit on a sport/commercial seat and I'd kind of hate to see -- I just wonder where this goes, where they stay rural but really it amounts to a very small opportunity for non-subsistence and really pretty much limited subsistence opportunity and yet nobody's going to ever want to give up the rural status, you see that already.	
Region 4: Bristol Bay	What would be the consequences, and I'd hate to see that there would be a segment of population that would be eliminated but when you look at it?	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 4: Bristol Bay	I think that there would be a segment of folks that would find that frustrating and feel excluded under a kind of….playing with names, semantic differences, that type of thing, and at the same time, you know, there are places that right now sustain an amazing amount of subsistence and yet there's a rather large human population.	
Region 4: Bristol Bay	I do think that, Kodiak, Ketchikan, and Bethel areas, that somewhere some of these communities are going to get so bog that what's the difference, …..we need to take care of that resource, don't trash the resource in the name of subsistence, any more than any other use.	
Region 4: Bristol Bay	Having been the person who threw this idea out there in the first place, quite frankly I'm even amazed that it made it this far, and I'm glad a whole lot better brains than mine have constructed it to where it is. But that was actually one of the reasons that I threw that idea out there, because you do have communities like Dillingham, was the one that was brought up to me, it's growing in numbers. It's growing in numbers due to the inability for people to continue to live in the villages due to the high cost of living, but that does not make you, in Dillingham, a nonrural entity by any means.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 4: Bristol Bay	I would maybe make the suggestion that we would throw a marker out there to have resource monitoring, be one of the, perhaps, red flags that would go up, when we see numbers going down and restrictions being put in place for all user groups, that perhaps that should be an indication that we should take a look at status.	
Region 4: Bristol Bay	Bristol Bay said more criteria was needed….Could you speak to the criteria part of nonrural or is that not a good thought or what do you think. And the second thing is, decennial, that word, decennial, means 10 years, so we decided three….	I want to stress that previous to this, this change, one of the things we did hear from the public and the Councils was this 10 year review was seen as arbitrary and unnecessary, so that's no longer there. What we are saying here is not an automatic review every three year review like it was an automatic 10 year review. What we are saying is that proposals will be considered every other fisheries cycle....it's possible for people to put in a proposal, but if nobody puts in a proposal for rural/nonrural, nothing's going to happen. So it's not like after three years we're automatically going to be reviewing the status of communities. I don't want to try to predict the future, but if we got nothing for the next 15 years, then there would be no change in status.
Region 4: Bristol Bay	They indicated there should be criteria for rural/nonrural for making determinations defensible and justifiable, which I think is a good -- could you speak a little bit to that.	To speak to criteria. There's been lots of other criteria in the past, aggregation of communities, dependence on the resource, population levels, presence of military, those kind of things, there's been lots of criteria in the past but that's from the Councils and from the public as to what they think are appropriate.
Region 4: Bristol Bay	So we nailed down pretty much the three year cycle -- from the 10 year,	

Region	Council Comments/Concerns	OSM Response during Council Meeting
	which is fine, 10 years is a long time, and then narrow it down to a three year.	
Region 4: Bristol Bay	Could you address a little bit….Councils, the Native Corporations, what are some of the other entities that they would -- the Federal Board would like to have some input from, which I think is a great idea, Bristol Bay Native Corporation in Southwest Alaska, all in Southeast Alaska and when we start trapping across their lands and village lands, corporation lands, you know, somebody should have a say so on who's getting the duck and the goose. Could you address that just a little bit?	Certainly from the Federal Subsistence Program viewpoint and my personal view…the Councils are absolutely the most critical part of the whole Federal Subsistence Program….because the Councils represent the people in their regions. But certainly the tribes, we want tribal involvement and we want public testimony as well. When the proposal is initiated and you publish a book with all the proposals, there's a public comment period with that time. The public can come to the Council and have public testimony on a specific proposal for change in status and then at the Federal Board meeting, there's yet another opportunity for folks to come and discuss their viewpoints on a given proposal, that would certainly include change to rural status. We’re looking for input from all entities.
Region 4: Bristol Bay	It looks to me like we're managing the people than managing the resource…it's further complicated by the people that move to larger communities because it's cheaper to live there but yet they still want their subsistence, their traditional foods, so they move out to the village for a week or two weeks to take advantage of the opportunity and then when they get their animals or fish and they move back to the large community.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 4: Bristol Bay	So even though as a member of the large community, they're nonrural, they still go back out to rural communities to take advantage of that, so it's further complicated by that. That's something we might have to deal with at a later date when a community is designated as nonrural but yet there's people in that community that go out to the rural areas and take advantage of the opportunities....it looks like we're going to be managing people.	To your description of nonrural/rural, is that, even currently now if somebody grew up in Kotzebue but had to move to Anchorage, because of lack of employment opportunities, they couldn't just come back to Kotzebue in the summer and start harvesting fish and wildlife under Federal regulations, they would no longer be a rural user. We determine somebody's rural status based on where they live and we have that through any number of means, often it's where your license is, where you get your mail, where you get your PFD, that's a big one, voter registration, those kind of things....your rural status is determined by your residency and if you live and have established ties in a nonrural community you are not considered eligible under Federal subsistence regulations to harvest under the Federal regulations.
Region 4: Bristol Bay	But people do.	That's a law enforcement issue and well beyond the scope of us within the Federal Program. That's where enforcement comes in.
Region 4: Bristol Bay	I have an easy solution. My solution is we'll have to change the stomachs out. The people who have moved from rural to nonrural, they wouldn't have the hunger to go back and harvest the resources that they've grown up with.	
Region 4: Bristol Bay	Is the Board going to take this up in January to finalize it?	Correct. They're going to take it up at their January 2017 meeting to finalize the policy.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 4: Bristol Bay	Thank you, Dan O'Hara, for directing us to this -- the fine print of the Federal Register is challenging. But there looks like there are words in here that sound kind of familiar to what I was bringing up here. So, I guess I'm pretty comfortable with my comments being recorded and showing my concerns. But I think that overall I agree with like getting rid of the 10 year and going to the three year, I guess defending rural versus the old approach...I guess overall, kind of proceed carefully and cautiously and respecting all the users.	This comment is referencing previous comments made on the Final Rule.
Region 4: Bristol Bay	I'm looking at the comments that we made…discuss deference and supported the idea but it did not go far enough, what did we mean by that?	This comment is referencing previous comments made on the Final Rule.
Region 4: Bristol Bay	We had some concerns, some council members had concerns that it didn't go far enough in describing still the difference between rural and nonrural, and that was kind of left up in the air,…kind of the openness that Dan was addressing here early..	This comment is referencing previous comments made on the Final Rule.
Region 4: Bristol Bay	I think the word, deference, typically when I've heard it discussed around our table, we're requesting the Federal Board to respect and defer to this Council, and our desires, what we put forward…	This comment is referencing previous comments made on the Final Rule.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 4: Bristol Bay	I think there for a time we were pretty concerned just how they chose to -- if they went to an aggregation. If we got aggregated with Aleknagik, Clark's and all of a sudden we'd be up there bumping on that human population threshold criteria. So, yeah, we didn't like that idea much, especially as scattered as those communities really are. I think, overall with our discussion here and previous comments, hopefully the Board will get the general trends from us.	
Region 4: Bristol Bay	We've had a good healthy discussion on this and I think that means that this Council is very active on what we're going to pursue along this line. I think I further, clearly understand this nonrural thing quite a bit better. We've just been living the rural thing.	
Region 4: Bristol Bay	During our AFN Conference, during the resolutions, that there were a few resolutions that came on that identified rural and nonrural and during the discussion, the people that lived in nonrural wanted to be identified with the same services as the rural people, so if I understood correctly, the resolutions that had to do with rural and nonrural status were -- the nonrural statuses were -- I think it was changed to Alaska, so that the nonrural residents would be identified with the other residents and in that process, I think, this is going to wrap up this section of our nonrural/rural status.	
Region 4:	I would just feel comfortable in just	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Bristol Bay	keeping our comments and just leave it at that.	
Region 5: Yukon-Kuskokwim Delta	At what population level does a small town or city become non-rural? Is that 7,000 or 10,000?	That's one of the fundamental changes that was made with this new nonrural determination policy. So there was a full public process to review the old criteria and the old process for determining rural. One of the concerns was that these set guidelines in terms of population. Many communities had concerns that they exhibited rural characteristics but were concerned if a road got built in their region or their population grew, so those set guidelines about population thresholds no longer exist in terms of the criteria that the Board is bound to consider. They will review on a case-by-case basis, but those set criteria are no longer in place.
Region 5: Yukon-Kuskokwim Delta	What do the changes mean for a community that's in proximity to a larger community that's nonrural? Do any of the factors change in terms of deterring nonrural versus rural?	In an effort to make the process more flexible, between regions, between communities, the factors that were there are gone. They are removed. So the Board will take up proposals on a case by case basis. The onus will be on the proponent to justify their reasons behind submitting the proposal and giving enough information to the Board and to the Councils for their recommendations to the Board as well. For the Board to decide whether or not they are, in fact, non-rural. Folks overwhelmingly wanted to simplify the process, and I believe some of the public comment on those eight factors that were in regulation was arbitrary; things of that nature were removed.
Region 6: Western Interior	The decision-making process says that the Board will consider the recommendations of the appropriate Councils but there is no deference.	It does say consideration. The Board will look to the Councils for confirmation that any relevant information brought forth to the nonrural determination process does accurately describe the unique characteristics

Region	Council Comments/Concerns	OSM Response during Council Meeting
		of the affected region; however, deference to the Councils does not apply.
Region 6: Western Interior	Concern regarding the ability for any non-local individual or group submitting proposals - think that only people within the region should be allowed to submit proposals	This policy does not intend that proposals, those that are not backed by significant evidence, would result in a need for discussion regarding a change. There has to be evidence.
Region 6: Western Interior	Some councils have substantial representation by what should be considered nonrural members.	
Region 6: Western Interior	Think that nonrural proposal should only be accepted every 5-10 years, maybe every 4 years. Make it an even number. The biannual process could cause lots of extra work for the Councils if any individual or organization can submit proposals, I think there could be lots of proposals.	
Region 6: Western Interior	Does this include the eight criteria that they used to use, direct dependence on the resource, all of those that used to be in the determination process. I don't see it there, have they eliminated the eight criteria?	It appears on P. 21, for the decision-making process, it describes the process on a case-by-case basis based on determination change, determination information, reasonably defensible nature, makes nonrural determination based on comprehensive application considered presented in the proposal, have been verified that the Board is accurate and it appears to me that the eight criteria are not involved.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 6: Western Interior	What have the other Councils done? What about southeast?	The Southeast Council's letter to the Board has not been finalized. I do not know what the Kodiak/Aleutians said about the policy. Southeast wanted a letter that states their appreciation to the Board because this is a fundamental issue. The two items that they wanted to stress were a recommendation to include "deference" to the Councils and the Council role in providing information in making determinations. They indicated that the language reduced the role of the councils in the process to just verifying the accuracy of information.
Region 7: Seward Peninsula	It's been a long work. Four years. It's been pretty well hammered out, so I think I can feel comfortable with it from the time that it's taken to get this far. I hadn't seen anything or recognized anything that I'd want to comment on at this time. Hopefully I didn't miss anything.	
Region 8: Northwest Arctic	Just for my reminder for me, it's just on the population level for non -- the rural is how many people, was it 10,000 or what was it?	That was the old threshold. That is not the new threshold…the top of page 16, those three bullet points are the new threshold requirements. So gone are those population ones and road system, all that. It's going to be sort of considered on a case by case basis by the Board...Anybody can submit a request to the Board, but it has to meet these threshold requirements...in the future this would be the process that would happen.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 8: Northwest Arctic	The reason why I asked that question, what I'm scared of is for the Federal side, when they make a regulation in place they say this is for the whole state. That's what I'm scared of, I don't have -- but this isn't made for Kotzebue area, for Northwest Alaska and it say this is what we did and it's cover the whole state. That's where I was trying to lead to, that's what I'm scared of because I don't want to be in a level of within because our population at Kotzebue just about double in fall time when the (in native) everything is done it drop back down see.	The population isn't -- is maybe one factor, but it's -- those three considerations are…there isn't a strict population threshold, you know, where you get above this population then you automatically become nonrural. That's no more. It's a case by case basis based on those three things and it'll be considered by the Board.
Region 8: Northwest Arctic	It's just a report; we don't have to work on this one or anything.	It is an action item so they want your approval or opposition to this, the draft nonrural policy.
Region 8: Northwest Arctic	So just nonrural and rural, it don't affect anything about roads to somewhere or anything?	That road requirement, used to be if you're connected to the road system, that's no more, that's not a strict requirement, you know, population, road system, that is no more. It is based on individual communities on those thresholds. The Board will take all that into consideration, but there is not -- you know, just because you double your population you're not going to be oh, you're automatically there or you -- a road is built, no, that doesn't -- it's not part of this policy anymore.
Region 8: Northwest Arctic	So what you're saying is if I live in Noorvik, if they want to be nonrural they'll be nonrural even though it's rural, right, is that what you're saying?	If someone puts in a proposal…..to say Noorvik is nonrural the Board will consider that proposal and, you know, if there's evidence to say that Noorvik is now nonrural then it'll be nonrural. But there would have to be major evidence to show that it's nonrural.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 8: Northwest Arctic	Let's just say Ambler gets a road project in and Ambler's population like quadruples. Is it going to affect the rest of the region or is it just going to affect ambler. I don't want to affect the rest of the region because we shouldn't have to be limited when...one other community rises in population because of a road system placed in. I don't want the rest of us to...suffer from a place becoming nonrural and the rest of us are really rural. I just want to make sure that there's a clarification there to where if a community rises significantly beyond that rural number or status it won't affect the rest of the region and/or game management unit.	The way I read this and I can get clarification on it too, is its base on community. So if one community rises -- it's individual communities. And that can be a clarification you -- in your -- you know, your motion, that you make sure that comment is forwarded.
Region 8: Northwest Arctic	Could this team, this RAC team make changes down the future?...I'm looking at the whole thing, could we change anything in there down the future?	Your question is can the RAC change something in here?
Region 8: Northwest Arctic	Like for instance here, you're talking about cities, rural becoming cities, down the future could we change that is my question?	I definitely think this could be -- I mean, it's being reviewed right now and it can be reviewed in the future. I don't know if there's an -- if anybody in the audience knows if there's a mechanism to do that automatically like every five years or whenever you visit, but I think this is going to be the policy moving forward.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 8: Northwest Arctic	I without understanding one time that rural city or village or community was -- they were not -- they were rural if they were under 7,000, that's not a region, it's a city or a village that has less than 7,000 people. So even if we take the whole NANA region there's only six -- only 6,000 people in the whole region. So we could still be -- you know, we could still fall under that rural. Because I remember one time on one of the Boards when we -- when it was brought up to us and I know I was Chair of that place then, we determined at that time that a community or a city or a village would be 7,000 people then they would be rural, anything above that would be nonrural. So I just thought I'd bring that up because it's not the region, it's a village or a city.	For the record I'm Pippa Kenner. And, yeah, the way the rural, nonrural, whichever you want to call them, regulations are in a part of our regulations that the Federal Subsistence Board doesn't have authority to change on its own based on the recommendations of Councils. It actually goes to the Secretary. So with the Councils we've been working on a proposed rule for the Secretaries to consider. And we had a -- you might remember over the last couple years we've had a really big public process, we had meetings in different communities, you're all -- you're all right. What you're remembering is that the way the process was set up is that communities that were above 7,000 in population were considered non-rural and communities that were less than 2,000 were considered rural and then communities that fell in between we did an analysis on. And we could look -- we didn't have to look at any factor, we could look at all factors to do that analysis. In addition to that the Board allowed every -- and we did this review every 10 years, it was on a 10 year cycle. In addition to that there was a proposal period where people could put in proposals to nominate any community as being rural or nonrural and the Board took that up.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 8: Northwest Arctic		A lot of complaints about that process so what we did, we started from scratch. Now there is not a 10 year cycle, now there are no set criteria in regulations, we'll accept proposals to the Councils, we'll accept proposals to change rural or -- rural or nonrural status based on a threshold that is in your documents. It says that if there have been significant changes in that community that could potentially have changed the rural or non-rural carrier -- character of the community the Board will take it up. It'll go through the Council in the region that that community or area is in and that recommendation will go to the Board and the Board will make a recommendation to the Secretaries. So we used to be on a 10 year cycle, we used to have a few little criteria, we have no set criteria anymore, and we're not on a 10 year cycle. The proposals can come in, but they have to meet a threshold saying that there's been some change in that community or area. The idea was that it was going to make it -- the process would recognize the differences in the State, that some places have roads, some don't, that doesn't necessarily mean one community is rural or not rural based on the road system, that there was a lot of differences in the State and that it -- the Councils now are asked to take a much more active role in the rural, non-rural determination process by advising the Board on the situation in their particular communities and area.
Region 8: Northwest Arctic	You know, there was a lot of question about that rural and non-rural before for NANA region unlike that -- pretty much like 200,000 square miles so does that not deal with rural or nonrural, that 200,000 square miles of NANA, entire	Thank you for the question and this is Pippa Kenner again through the Chair. I think it might be helpful if we recognize the areas right now that are considered non-rural and maybe that will reveal some of these qualities that.....people appear to think make a

Region	Council Comments/Concerns	OSM Response during Council Meeting
	NANA region so it don't have to be considered as a rural?	community nonrural.
Region 8: Northwest Arctic	So there are Valdez which has a -- which is basically a community that developed around the pipeline, it's a lot of workers who come in two weeks and leave for two weeks. We have the Anchorage area, large parts of the Kenai, the Mat-Su Borough, Fairbanks Northstar Borough, many of these areas are -- do happen to have a road system.	
Region 8: Northwest Arctic	I think the reason why we had a lot of questions on -- I mean, some questions on this one here because we weren't informed when they make, you know, changes to -- not the numbers -- the last time I hear it was the numbers, that's why I brought it up. And we weren't informed and so we didn't know about it because somewhere the decision was made and we didn't know about it and now we're hearing about it. That's why we -- and sometime we get blank; we're trying to figure it out that we could understand it. Thank you.	Are there any other questions? I think Pippa did a great job of explaining some of those loose ends in an overview of the draft nonrural process. But are there any other questions for us?
Region 8: Northwest Arctic	My motion is to approve this draft nonrural policy as presented by Stewart.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 9: Eastern Interior	Why does the policy say that deference does not apply to the Councils? The policy DOES affect take.	It has been determined that the section 805 provision in ANICA that is where the deference comes from, only applies to recommendations on take. So that means the fish and wildlife regulations and also the C&T regulations the Board has adopted as a matter of policy that will also provide deference on C&T determinations. But rural is not a recommendation on take so at this time it's not either in the statute or in policy to give deference. The council's opinions would definitely be highly regarded, but they're not going to have that deference that the section 805 language provides. You can consider suggesting stronger language though, such as "significant consideration."
Region 9: Eastern Interior	Questions regarding public comment. We should take public comment during the Council meetings on the subject instead of having a public involvement meeting separately. Then they wouldn't have to comment at 10 different meetings. The comments should have the same weight if given here or separately.	When we have public meetings it is direct testimony to the Board whereas if they're commenting at the Council meeting, it's not a comment to the Board, it's a comment to the Council. It's their chance to influence you; it's their chance to influence your recommendation to the Board. Public meetings are direct comment to the Board.
Region 9: Eastern Interior	We should add a link that says public comments taken at RAC meeting will apply to the process.	One thing that councils can do is, after hearing all of the comments from the public at their meeting, they can move to adopt public comments as theirs and forward them to the Board. That provides a nice channel for the public to go through the Council and for the recommendation to get to the Board.
Region 9: Eastern Interior	This policy does affect take, rural or nonrural status does affect take. It is part of the process that affects take. It basically says the Board will listen to what the Councils say but it doesn't	

Region	Council Comments/Concerns	OSM Response during Council Meeting
	carry any weight.	
Region 9: Eastern Interior	On P. 23 number 2 it says the proposals for nonrural determination are validated by the staff. What is valid or not valid?	It is the proponent's responsibility to provide the Board with substantive narrative evidence to support their rationale of why the proposal should be considered. A detailed statement of the facts that illustrate that the community or area is nonrural using the rationale stated and the threshold requirements. The Board determines that the proposal meets the threshold requirements. These proposals have to be substantive and not just something written on the back of a napkin.
Region 9: Eastern Interior	So this is going to go before the Board in January and they'll have an option to pass it as it is or pass it as amended by the RAC?	That sums it up, but again it won't just be this Council; all of the Councils are weighing in.
Region 9: Eastern Interior	What did the other Councils say?	Deference. But when they found out that a lawyer would likely be making the determination of whether that word can be used, they wanted to beef up the language with something like "significant consideration."
Region 9: Eastern Interior	The language on the sixth bullet is too broad in defining the difference in consultation between tribes and ANCSA corporations. With tribes it is actually government to government. It should say that both will be consulted not "either/or."	There could be times when there is no ANCSA corporation that would be affected and therefore wouldn't need to be consulted. There could be times when you need to consult with tribes and not the ANCSA corporation.
Region 10: North Slope	This list of nonrural, these communities here are deemed nonrural. And if your community is not listed on here it's a rural community, right?	Yes, sir, Mr. Chair; for the purposes of Federal subsistence, any community not listed would be considered rural.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	And does this differentiate between communities, whether they're around State land and can be conceived to be hunting in Federal public lands on adjacent lands; does that include communities that are surrounded by State public lands?	Yes, it does not take into consideration whether communities are surrounded only by Federal public lands or State public lands, so indeed the areas that are deemed rural for Federal subsistence purposes may and does include communities that are surrounded primarily by state lands; however, the rural status is sort of the foundation for the Federal subsistence priority and so it's the first step in determining the populations that are eligible for that subsistence priority on Federal public lands.
Region 10: North Slope	It seems to me that the rural ones were already those encountered -- when was the change 2015?	The list that is now in regulation of nonrural areas is the list that existed prior to 2007.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	And having dealt with nonrural and rural determinations -- because I've been on the Board basically probably about 15 years with a little break in between, but I kind of have a good understanding of what, and so it's based on these decisions that were already made in that rule, but I don't see Prudhoe Bay in here and it seems to me there's a selective -- an I not seeing something here because Prudhoe Bay was deemed not to be rural, it was deemed to be oil and gas province, with 10,000 - 15,000 rotational workers coming into Prudhoe Bay and I could remember at least five to six years ago, maybe longer, we argued concerning whether Prudhoe Bay was a rural community in the sense of a community and we argued there's no schools, there's no real sense of a community attached to that. But I'll shut up at that point, I just want to see how you carved Prudhoe Bay out of that one.	In 2007 a new list was published in the Federal Register, that essentially added two new -- among other things it added two new communities or areas to the list of nonrural, that included Prudhoe Bay and Saxman in Southeast Alaska. There was widespread -- there was many -- there were many, many comments received from the public in response to that action and much critique. In addition there was the Secretarial Review of the Federal Subsistence Program which occurred and began in 2009 and as part of that review it was determined that the Program would take a look at its rural determination process at large, so the whole -- to see how things were being done and whether they were being done appropriately according to what was called for in ANILCA. As a result the Secretaries -- the Board made a recommendation to the Secretaries of Interior and Agriculture to change the determination process to no longer make rural determinations, but to make nonrural determinations. So a long story to get us to where we are now. Once that decision was made, the Board then had to establish a starting point and because of the difficulties of the 2007 Federal Rule -- 1 or Final Rule, it was decided to turn back the clock to the pre-2007 date which then made Saxman -- among other things, Saxman became rural again as did Prudhoe Bay. In terms of Prudhoe Bay, it's important to note here that to be eligible for the Federal subsistence priority you need to be a rural resident and a rural resident is defined as a permanent full-time resident of the community or area that is considered rural and in Prudhoe Bay there are virtually no full-time permanent residents.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	Reiterate Deadhorse has zero residents?	Prudhoe Bay and Deadhorse being considered together, there are likely some full-time year-round residents in Deadhorse at this time. At the time that the analysis was done, to look back to -- to come up with the 2007 list that moved Prudhoe Bay from the rural to nonrural list, they found between zero and five full-time permanent residents in the area. That may -- we're now at 2016, so that number has likely changed.
Region 10: North Slope	We're talking about Deadhorse, bit it kind of makes me think, does one person or two people create a community or does a community need to have the sense of a community. This is an oil and gas Provence, which every piece of land is probably owned by maybe three or four oil executives that lease it for 50 years or in perpetuity at this point probably, and a billion dollar estate for each one of these things. Those are just some of the questions, and maybe it's an argument for some other time, but basically you're telling me that Prudhoe Bay is considered rural right now and we would have to argue those facts if we wanted to change it.	Yes, Prudhoe Bay is considered rural at this time. In order to be eligible to hunt or fish on Federal public lands, however, Prudhoe Bay rural residents would have to have a customary and traditional use determination as well. However, those questions that you've raised are exactly the type of question that if a -- once a policy is in place for making nonrural determinations, those are the same sorts of questions that would be asked and discussed during any type of analysis and with the Councils, but the draft policy that I'm bringing to you today is a way to address, if the Board adopts it, a way to begin addressing questions like that for different communities and areas around the state.
Region 10: North Slope	The Board will identify if the threshold limits have been met -- requirements have been -- that's the responsibility of the Board, it is to identify that the threshold requirements have been met.	Yes, however, when we get to the process timeline you'll see that before the Board does that, the proposal will go to the affected Regional Advisory Council and we'll be asking Regional Advisory Councils to provide information and comment and a recommendation to the Board before they make that threshold determination. Recommendations on whether the proposal meets the thresholds according to the Council's perspective.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	Who adjudicates the proposal, agrees with it, or disagrees with it?	The Federal Subsistence Board
Region 10: North Slope	Not to make a judgment call whether the threshold limits have been met, but who agrees with it or disagrees with it; who says yes it meets all the threshold limits, it is a proper proposal, not approved, I don't agree with it -- who says that?	OSM clarification - I think you're asking two separate questions and correct me if I'm wrong. The first being, does it meet the threshold and then if it does, who determines whether or not the change will be made; after a threshold determination is made, if the Board determines, they've [the proponent] addressed these items that we've asked proponents to address, it's a valid -- it meets the threshold, it would then go to a full analysis, which means it goes back to Staff, Staff starts to analyze the proposal, but more importantly, a very detailed and in-depth public process begins, which includes tribal consultation, ANCSA consultation, public meetings in the affected areas, public comment period and the Council would receive the analysis and all of the public comments that we received to-date and then the Council will be asked to also make a recommendation on whether or not the proposal should be adopted.
Region 10: North Slope	I've heard through the grapevine with our meeting, pre-meeting that deference is an issue. When we're going to -- somebody has a concern that a community shouldn't enjoy rural status and deference is not going to be afforded, either this Council and can you tell me if that's one of the processes, and if the Regional Advisory Council is optional or is it hardwired in to get our recommendation, and on top of that layer, the concern about giving deference to a body of folks like this that represents a community is, you know, Barrow is a pretty good sized	The general process timeline and you'll note No. 3 and No. 7 of that timeline specifically require the affected Regional Advisory Council review and comment. That's the timeline for processing proposals is a long timeline. What we set forth is a three year timeline, and that's to assure that the Councils would see the proposals twice, if they meet the threshold, twice, and we have to follow your [councils] schedules for your meetings, and then also because of all of the public input and consultation that would take place. So not optional

Region	Council Comments/Concerns	OSM Response during Council Meeting
	community and one day somebody's going to introduce potential legislation stuff and saying, hey, Barrow shouldn't enjoy rural status and it's too huge and it should be ranked like Fairbanks and Valdez or some other place. Can you talk about that in terms of giving deference to a community?	
Region 10: North Slope	It's hardwired	It's hardwired
Region 10: North Slope	On the topic of deference	The last paragraph on Page 21 that says 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 region, however, deference to the Councils does not apply. What this means is that in Section 805 of ANILCA deference is provided to the Councils for matters related to take of fish and wildlife, and so at this point the policy does -- states that deference does not apply because rural/nonrural determinations don't specifically relate to take. In previous discussions though with the Board, the Board -- the language that was used was giving significant weight to the Council's recommendations/

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	When you talk about deference because it's related to take is what I'm understanding, and rural and nonrural is not talking about the take, bit when you're tied to cultural and traditional uses and how you may need to differentiate between how it impacts different users, I just want to recognize indigenous people have a different kind of a right, just like we have a right to the bowhead that nobody else has. And there needs to be some accountable and measureable way to account for these cultural aspects.	
Region 10: North Slope	When our communities are getting so large that 50 percent of the population are now different ethnic groups that don't have same cultural ties to the land, the animal, the resources in these areas, we may have a ceremonial right to some of these things, and other things, how are those types of things would be impacted and is there -- that's why I thought there's a connection to be made by giving deference in some way because I think the individuals might have different rights, and that might be something overlooked.	
Region 10: North Slope	I think there's different kind of people with -- there's always this thing up in the air, the indigenous people's right to subsist in the loop.	
Region 10: North Slope	As a supportive statement, tribal consultation needs to weigh in a little -- weigh in as a heavier component or as a weighted component compared to the public comment. In this regard is that	

Region	Council Comments/Concerns	OSM Response during Council Meeting
	the indigenous need for subsistence access is more than just a sustained physical health.	
Region 10: North Slope	Both the indigenous need and the public need is a common need, it's a need for sustenance, for nutrition, it's a food resource, both share that.	
Region 10: North Slope	However, subsistence has an even greater need for the indigenous population, the Inupiaq -- it's an emotional need, it's a mental health need for indigenous qualities.	
Region 10: North Slope	It's cultural, it's tied to cultural activities; to identify their culture and associate their culture with.	
Region 10: North Slope	An Inupiaq that does not have access to subsistence it could be argued is not an Inupiaq. There is such a loss of mental and emotional health that goes with it, that not only will they not have a food resource, they will wither even faster than I would wither by not having the food resource. I can live longer without subsistence than an Inupiaq can.	
Region 10: North Slope	Therefore, tribal analysis of the nonrural determination needs to weigh stronger than the public association, or the public comment.	
Region 10: North Slope	This is a serious matter, and it's rural/nonrural, one day I think Barrow's going to be hit with that because somebody's going to slap us on us.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	Because I'm at the that age where I grew up on the edge of a real subsistence lifestyle with my parents, the way that they had lived according to the rules and regulations of the natural law that was around us and everything that controlled it was where the animals were, where the fish were, and where they were migrating to or where the availability was. Our people never stood in one place, there were camps like 20 miles each all the way down the coast, and our ecological sites prove that.	
Region 10: North Slope	When we're talking about who's going to be hunting and who is rural and nonrural, it depends on the availability of the animals that are being hunted and being use for food. And the concept of designating rural and nonrural, it's a spiritual thing to me, and to the animals. It's a spiritual connection that has been passed down for many generations. Some people have it, some people don't.	
Region 10: North Slope	When you look at what would be rural and what would be nonrural, it depends on what the State government spends on, and a lot of the rural areas don't really get their share of the State monies. For instance, in large areas of the State they don't get subsidized road maintenance and care, and they don't get the subsidized State ferries, that decreases the transportation of people, food, and what they need in each city that is in the subsidized State transportation system, and that's where the division starts.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	The threshold of people that are in those urban areas, and the rural areas, population shouldn't be a matter; it's a matter of who is being subsidized heavily in food, transportation, especially health care.	
Region 10: North Slope	And when you look at the monies that are being spent for people that are in rural areas to get better doctors and better health care, it really impacts how they live or whether they'll have enough food in the rural areas or in the villages that are on subsidized transportation-wise, that should be a key thing.	
Region 10: North Slope	When you look at rural areas it's those isolated villages that aren't in the subsidized transportation system and that should be a key thing.	
Region 10: North Slope	We should be looking at the threshold of the animals and the impact by nonrural residents that fly around a lot, too	
Region 10: North Slope	Let's look at the threshold of animals and the subsidized system of transportation that the rural areas aren't looking at, or not receiving and they're paying a high price of health care, food, and a lot of other stuff that need to be flown in that cost a lot of money and the more money that they spend for stuff like this, the less chance of subsistence hunting that they have to buy gas and ammunition and all the other stuff which isn't subsidized either.	
Region 10:	It's a spiritual thing, it's not a cultural	

Region	Council Comments/Concerns	OSM Response during Council Meeting
North Slope	thing.	
Region 10: North Slope	When you are connected to what God has created for our needs, it's a spiritual association with the land, with the sky, with the environment, especially the animals that don' know how to speak for themselves.	
Region 10: North Slope	Here's a big, big concern, currently the North Slope Borough is embarking on comprehensive planning for all of its communities, all of its village communities, they're all rural and we work with each tribe, trilateral commission, the community to identify an area called the village area of influence, where are all your hunting locations, this is your area of influence, and it does a few things for the Borough, like let's just say an oil and gas company decides that they want to drill for oil and it's in one of the communities area of influence -- this village area of influence is recognized by the community as, this my hunting area, this is where I pick berries and there's a special place over this way, so they identify a large area around their community called the village area of influence.	
Region 10: North Slope	An oil company wants to come in and go drill for oil or gas, and we say, hey, you want to do that there you're in Anaktuvuk's village area of influence, so we look at village policies, economic policies, subsistence policies and a high likelihood that there's going to be larger impacts for that community.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	Now, what does it mean for the Federal government or the State regulatory government when we've developed these and they're adopted by the North Slope Borough Assembly to protect that village area of influence, and for subsistence and for these, the resources are coming.	
Region 10: North Slope	Isn't that something that you need to take into account or should consider in a rural community that there is an identified -- the determination is they're rural, now how far does it extend, does it extend 200 miles over that way and 200 miles this way, but I think to be practical and to recognize where the rural communities subsist is identified and there should be a strong emphasis that	
Region 10: North Slope	even when the caribou come back up to numbers, this rural community should enjoy this village area of influence exclusive to that community, and not put the guides back in that village area of influence because that's what it amounts to. You can do these things and have better planning.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	I hope under rural and nonrural determination, these geographic extent around the community recognized by the Borough in comprehensive planning that the communities built, it should extend to some of these planning initiatives that the Federal government, OSM, ADF&G and those people should recognize these things.	What you've described, I think is a fantastic example of a holistic comprehensive planning. And I think as it relates to the Federal Subsistence program, it touches on various aspects of the program. In terms of rural status, if a proposal was submitted and it was deemed to have met the threshold and it went to full analysis, that's where we would be looking to the Council and others to let us know about this information that's been developed within the Borough about areas of influence and I would imagine that kind of information would contribute to analysis. This policy doesn't address the specifics of analysis, just lays out the process. Areas of influence that you've described certainly touch on customary and traditional use determinations that are based on historic patterns of use, which it sounds like we're talking about a similar thing. That sort of information comes into play in the Federal program, is where we do have limited resources or increased competition for resources and the Board is asked to enact the subsistence priority and prioritize among users and uses. So that is another area where that type of information would come into play.
Region 10: North Slope	And by the way they get adopted by the North Slope Borough Assembly as a plan. These are under North Slope Borough code of ordinances, saying we got a development, and by the way we got to update them every two years. So I think they're a great planning tools and I think they're much needed to be recognized in some of these, like rural/nonrural things.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	The regions that are under the North Slope Borough, all the lands are our hunting grounds and that's how the North Slope Borough was, with the boundaries, that's where all the Inupiaq people used to hunt before.	
Region 10: North Slope	Just looking at the list forward, very clearly, and at this time, no, I don't have anything until towards the final, if you want to make comments would recommend in a timely manner period.	
Region 10: North Slope	And I think it was important to, hear a lot of people say things about this, because, it has a lot of issues and ramification if you're going to be a rural community versus a nonrural community	
Region 10: North Slope	I feel that the weakness in this policy is that it doesn't give weight to the Native need versus other users.	
Region 10: North Slope	The strength in it, though, is that it allows wisdom to prevail with time. The three year timeline to employ it, the going out and getting public consultation, to reach out to the ANCSA corporations, I like that it is a slow process and a careful deliberation, so that there's plenty of time to carefully thing about all of it because there's many aspects to being rural or nonrural.	
Region 10: North Slope	There may actually be an advantage for Barrow someday, I can envision scenarios where it'd be an advantage where even all of you would agree with me, it could be an advantage of going nonrural for our community, to protect	

Region	Council Comments/Concerns	OSM Response during Council Meeting
	our wildlife from the threat of the population that is attempting to harvest or even overharvest it.	
Region 10: North Slope	In that case I'm fairly supportive of what you've laid out so far; I think I'm more on board; I don't feel as threatened as I did before.	
Region 10: North Slope	I think there's a little more area of work that needs to be done in creating emphasis within it for tribal consultation.	
Region 10: North Slope	But I have just one question, you know, the Board as -- excuse me, as the North Slope Advisory Council weighs on this, would the acting members of the community that is being considered, would they lose their seat on this Board if their community was to become nonrural and designated through this process. Say for instance, there's three Barrow seats on this 10 member Council here today, right, and if we were considering a proposal to make Barrow nonrural, would we then become a seven member panel, if it was to pass?	The Councils are predominately made up of rural residents in the region. We do have some examples for -- like Eastern Interior region, where there are nonrural residents, for example, individuals who reside in Fairbanks or North Pole, which is a nonrural area, who do serve on the Council based on their knowledge and experience, both in subsistence hunting and also are commercial sport seat on the Council. So the Councils are -- the role is to represent the rural communities within the region. And so in the event, and it would be a process, you know, and some of the concerns that you've identified in terms of a hard population threshold, those are now eliminated under the current policy that's being proposed here, and so it would be a process with input from the community and from the Council, and if that were to happen though, there are still seats that people with experience in subsistence and knowledge of the region who would be representatives for the region could still serve on the Council.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	So just mathematically when I think of thresholds, I think of numbers. But in this case the threshold is not a number; it's not a defined limit. Threshold is a concept that will be considered by panels of people.	When I was speaking about threshold analysis earlier, that the threshold determine that the Board would make, that would -- really what I'm speaking to is that the Board will look at the proposal and say -- or ask the question of is it based on information not previously considered by the Board, does it provide a rationale for determining the nonrural status of a community that takes into consideration unique characteristics of the community, and does it provide substantive information that supports the provided rationale. So there -- and if it does meet those -- if it does address those things and the Board could conceivably say it meets what they call the threshold for moving to the next stage in the analysis.
Region 10: North Slope	So any person can submit a proposal and the proposal can contain an argument that defines a threshold that's not defined, is not clearly defined, it seems to me that someone with creative writing skills who works in a law office, an environmental firm in Denver, Colorado, could petition the Board to make a substantive effort in evaluating a proposal to make Barrow a nonrural designation and they could -- and it would have to be considered through the process. It could even be worded in such a way with scientific evidence behind it that could elevate it so that the threshold would be substantive enough to require public consideration. There's not a lot of limits, the definition in here that would prevent that from happening. I mean am I understanding that right, anybody can submit a proposal, so long as they're a very good technical writer with a lot of scientific information at	Yes; Anyone can -- could submit a proposal, and one of the reasons that those proposals will come before affected Regional Advisory Councils is to get input from the Councils on whether the information that's been provided does accurately reflect the unique characteristics of the affected region.

Region	Council Comments/Concerns	OSM Response during Council Meeting
	their fingertips.	
Region 10: North Slope	Is that hardwired into Federal law, you know, I mean I would have a problem with the Wilderness Society, you know, wanting to change the status of one of our communities because they're seeing these threats and, you know, I already see the Wilderness Society counting wolverine every year, there's permits that come in, they want to count all the wolverines so they can put some sort of proposal in to limit the take on wolverines. I mean that's one thing -- and Bob brings another good point, in there should be a way to capture frivolous proposals, you know, I think that's an alarming thing to hear, something like that. Like if there was one it should be on Prudhoe Bay, somebody should do that one.	Anyone can submit a proposal because this is -- we're talking about Federal public lands and anyone is eligible -- any citizen is eligible to submit a proposal, any person. If you look on Page 20 of your draft policy, you'll see language in there that's titled limitation on submission of proposals to change from rural to nonrural, and this language is intended to be -- to limit what you've described as frivolous proposals, or repetitive proposals. So if a proposal goes in front of the Board and it's rejected for failure to comply with the guidelines or it's rejected after careful consideration by the Board, no proposals to change that community or area status as nonrural shall be accepted until there's been a demonstrated change in the community's rural identity.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	All these rural and nonrural considerations is not going to work if there's no enforcement available from the State and the Federal government. Look at it right now. Even if these are passed, who's going to control hundreds and hundreds of airplanes, sports guides, NANA region and North Slope, how many Fish and Game people are there, last count for the North Slope one or two State -- maybe the only guy right there, but he's not enforcement, he's just a good guy.	
Region 10: North Slope	Again, the consideration for the animals rather than nonrural or rural designation, but the availability.	
Region 10: North Slope	The laws of nonrural and rural, it's just dividing us as citizens of the State of Alaska; We need to be together on this.	
Region 10: North Slope	If the rural areas are being impacted by non-subsidized and high cost of transportation, then look at it from that angle on who really needs the food, rural or nonrural.	
Region 10: North Slope	It reads - this policy is intended to clarify existing practices under current statutes and regulations on here, so my question is when's the last time you've reviewed the statutes and regulations for this policy?	The rural determination regulations were changed in 2015, and the purpose of this policy, once it's finalized would be to ensure that if we have to make nonrural determinations or if there are proposals to change a nonrural area back to rural, that that process proceeds in a manner that will take into account the unique characteristics of each region.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	Times are different today and so the question that I have on there is that if you're going to be using words like enforceable, at law, or inequity against the United States, these documents -- I'd like you guys on the panel to make sure that you're our -- your own community's rules, regulations and statutes are utilized in this document on there because that will make a big impact statement	
Region 10: North Slope	Our populations are twice; almost in every community what it was back then. The needs and hunting lands has probably doubled in size on there.	
Region 10: North Slope	And the connections that we have, you know, we all live off the land, we all utilize it to benefit us, our families and our communities.	
Region 10: North Slope	The words that I hear today are very helpful in removing stress with what I've heard so far. So, I commend you guys, I take my hat off to you guys that have to work on that.	
Region 10: North Slope	Just wanted to add to this, the question on there, for the current statutes and regulations on there, I think that's real crucial to utilize what's going to work best for each community for today.	

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	That's what currently going on here with the change, that everything is rural except for these ones listed here and that's our starting point. Who made that determination when there was already, like I don't see Prudhoe Bay listed here, and there was already arguments to those -- arguments had already been fought to remove Prudhoe Bay and make it the same category as Fairbanks. Whose argument was that to do that?	The Federal Subsistence Board made the decision to make the starting point the pre-2007 list of nonrural areas. There was only one other change to the list and that was in 2007 and there were an enormous number of public comments and public feedback received about that process, which generated a complete review of the rural determination process, and so the Board made the decision to use the starting point, the list that existed prior to that 2007 change.
Region 10: North Slope	I just wanted to know whose idea it was. I'm pretty sure there's one person in the Federal Subsistence Board whose big idea happened. But, anyway, we'll just leave it at that, the Federal Subsistence Board did it and we'll just have to relent to that.	
Region 10: North Slope	This is going before the Board for approval, going to the Board for approval next year, am I correct?	This will go the Board in January of 2017.
Region 10: North Slope	I know we've been talking about this, you know, rewriting the nonrural determination -- you know been seeing this coming before the Council now for a number of years, we've Benn talking about this, but I get the -- this wasn't exactly what I had in mind from the beginning. It works. It's a useful tool, but I wouldn't mind seeing this cook for another year, what's the hurry to have this in place.	The Board has asked to take this up in January. We will certainly forward that comment to the Board. Currently, we have changed the regulation but we don't have a process in place of moving forward and so we need to establish a process to move forward. This would -- if the Board was to finalize a policy, if you look in your timeline, proposals would be accepted during fisheries, at the same time where we request proposals to change fish and shellfish regulations, so the next time that would occur would be January of 2018, so the Board is looking to -- would like to have a process in place before we get that point.

Region	Council Comments/Concerns	OSM Response during Council Meeting
Region 10: North Slope	Thank you for your presentation. I hope we provided a multitude of comments and concerns that you'll take back and analyze and conjure something up with all of that stuff.	

STAFF ANALYSIS
TEMPORARY SPECIAL ACTION
WSA16-03

ISSUES

Temporary Wildlife Special Action Request WSA16-03 submitted by the State of Alaska through the Alaska Department of Fish and Game (ADF&G), requests that Federal public lands in Unit 23 be reopened to caribou hunting by non-Federally qualified subsistence users for the 2016/17 regulatory year.

DISCUSSION

The proponent requests the Federal Subsistence Board (Board) to open Federal public lands in Unit 23 to the harvest of caribou by all users for the remainder of the July 1, 2016 to June 30, 2017 regulatory year. These lands were closed to the harvest of caribou except by Federally qualified subsistence users for the 2016/2017 regulatory year by Temporary Wildlife Special Action (WSA) 16-01. The proponent states that repealing WSA16-01 is appropriate due to new information concerning the population status of the Western Arctic Caribou Herd (WACH), to provide for subsistence uses by non-Federally qualified subsistence users and former Federally qualified subsistence users, and to remedy the social and economic hardships imposed by the decision on non-Federally qualified subsistence users before the caribou season in Unit 23 opens on July 1, 2016 for residents of Alaska and August 1, 2016 for nonresidents of Alaska. The Board's decision to approve WSA16-01 lacked evidence to support the need for closure to address a conservation concern and was not consistent with harvest management strategies found in the WACH Management Plan, endorsed by the Board during its 2013 meeting. Closing a large portion of Unit 23 will consolidate nonlocal hunters in smaller areas and increase crowding on State lands. The Board did not consider the impact of a closure on people who have already made plans to hunt caribou in Unit 23 in 2016 and have made personal and financial commitments. The proponent stated that the Federal land closure will be detrimental to subsistence use due to increased user conflicts, particularly on the Noatak River, and increased competition for caribou in areas that Federally qualified subsistence hunters can access.

The proponent states that new information indicates improvements in caribou calf production, recruitment, survival, and weight. Adult females exhibited very good body conditions and high pregnancy rates in 2015 and 2016. The newly derived WACH population estimate for fall 2015 is 206,000 caribou, falling within the lower end of the WACH Management Plan's "conservative" harvest management strategy. The proponent states that this new information is sufficient to rescind WSA16-01 and reopen Federal public lands in Unit 23 to the harvest of caribou by all users.

The term Federally qualified subsistence user (FQSU) is used to distinguish rural residents residing in communities with customary and traditional use (C&T) determinations for caribou in Unit 23. This contrasts with non-Federally qualified subsistence users (non-FQSUs) that may be Alaska residents that do not reside in a community with a C&T determination for caribou in Unit 23, or non-residents of Alaska. Other authors that are cited in this analysis frequently use the terms "local" and "nonlocal" without defining the parameters of the terms. Presumably "local" hunters are those that reside within the range of the

Western Arctic Caribou Herd (WACH) and "nonlocal" hunters are those that do not. When definitions were provided they were included in the analysis. Otherwise, the term used is in quotations.

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.*

In addition, ANILCA Title VIII Section 815.3 authorizes restricting nonsubsistence taking of fish and wildlife on Federal public lands only if necessary for the conservation of healthy fish and wildlife populations, to continue subsistence use, or pursuant to other laws.

Existing Federal Regulations

Unit 23—Caribou

Unit 23, north of and including the Singoalik River drainage	*5 caribou per day as follows:*	
	Calves may not be taken	
	Bulls may be harvested	*July 1–Oct. 14* *Feb. 1–June 30.*
	Cows may be harvested, however, cows accompanied by calves may not be taken July 15–Oct. 14.	*July 15–Apr. 30*
	Federal public lands in Unit 23 are closed to caribou hunting except by Federally qualified subsistence users for the 2016/2017 regulatory year.	
Unit 23 remainder	*5 caribou per day as follows:* *Calves may not be taken* *Bulls may be harvested*	*July 1–Oct. 31* *Feb.1–June 30*
	Cows may be harvested, however, cows accompanied by calves may not be taken July 31–Oct. 14.	*July 31–March 31*

Federal public lands in Unit 23 are closed to caribou hunting except by Federally qualified subsistence users for the 2016/2017 regulatory year.

Proposed Federal Regulations

Unit 23—Caribou

Unit 23, north of and including the Singoalik River drainage	*5 caribou per day as follows:*	
	Calves may not be taken	
	Bulls may be harvested	*July 1–Oct. 14* *Feb. 1–June 30.*
	Cows may be harvested, however, cows accompanied by calves may not be taken July 15–Oct. 14.	*July 15–Apr. 30*
	~~*Federal public lands in Unit 23 to caribou hunting except by Federally qualified subsistence users for the 2016/2017 regulatory year.*~~	
Unit 23 remainder	*5 caribou per day as follows:*	
	Calves may not be taken	
	Bulls may be harvested	*July 1–Oct. 31* *Feb.1–June 30*
	Cows may be harvested, however, cows accompanied by calves may not be taken July 31–Oct. 14.	*July 31–March 31*
	~~*Federal public lands in Unit 23 to caribou hunting except by Federally qualified subsistence users for the 2016/2017 regulatory year.*~~	

Existing State Regulations

Unit 23—Caribou

Unit 23, north of and including the Singoalik River drainage	*Residents—5 caribou per day; however, calves may not be taken.*	
	Bulls	*July 1–Oct. 14* *Feb. 1–June 30*
	Cows	*Jul. 15–Apr. 30*
	Nonresidents—1 bull; however, calves may not be taken	*Aug. 1–Sept. 30*
Unit 23 remainder	*Residents—5 caribou per day; however, calves may not be taken.*	
	Bulls	*July 1–Oct. 14* *Feb. 1–June 30*
	Cows	*Sept. 1–Mar. 31*
	Nonresidents—1 bull; however, calves may not be taken	*Aug. 1–Sept. 30*

Extent of Federal public lands

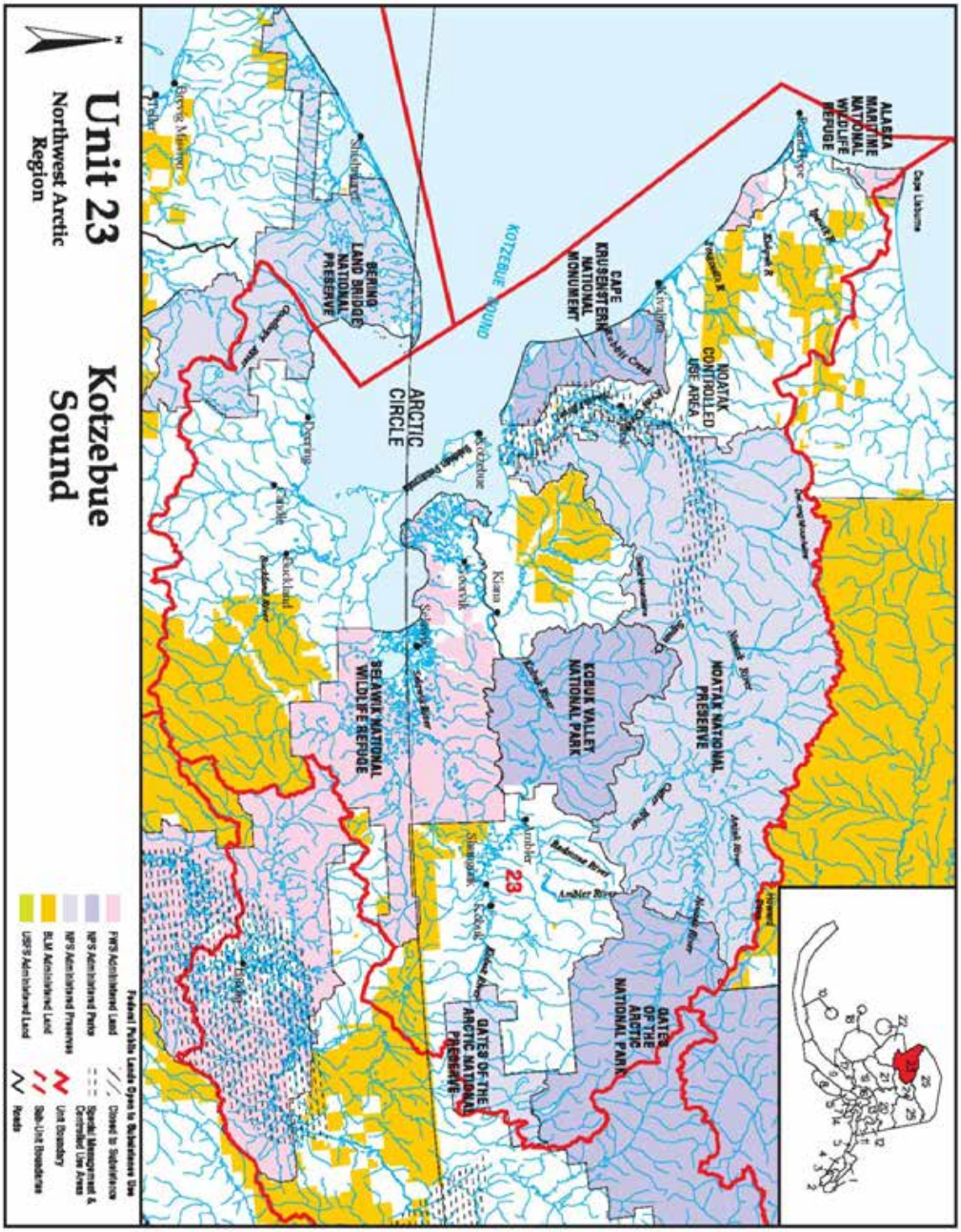
Federal public lands comprise approximately 69% of Unit 23 and consist of 42% National Park Service (NPS) managed lands, 18% Bureau of Land Management (BLM) managed lands, and 10% U.S. Fish and Wildlife Service (USFWS) managed lands (see **Map 1**).

Customary and Traditional Use Determination

Residents of Unit 21D west of the Koyukuk and Yukon Rivers, Galena, and Units 22, 23, and 24 including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area, and Unit 26A have a customary and traditional use determination for caribou in Unit 23 (see **Table 1**).

Regulatory History

In March of 1988, the Traditional Council of Noatak submitted a proposal to the Alaska Board of Game to establish the Noatak Controlled Use Area. The Board of Game modified the request to include approximately one third of the land area requested by the Traditional Council and unanimously approved



Map 1. The extent and location of Unit 23—Kotzebue Sound.

Table 1. Communities in the customary and traditional use determination for caribou in Unit 23.

CUSTOMARY AND TRADTIONAL USE DETERMINATION–UNIT 23 CARIBOU	
Unit of Residence	**Community**
Unit 21D west of the Koyukon and Yukon Rivers and Galena	Galena, Kaltag, Koyukuk, and Nulato.
Unit 22	Brevig Mission, Council, Elim, Gambell, Golovin, Koyuk, Little Diomede Island, Nome, Saint Michael, Savoonga, Shaktoolik, Shishmaref, Stebbins, Teller, Unalakleet, Wales, and White Mountain.
Unit 23	Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Point Hope, Selawik, and Shungnak.
Unit 24 including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area.	Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Hughes, Huslia, Wiseman.
Unit 26A	Atqasuk, Barrow, Nuiqsut, Point Lay, and Wainwright.

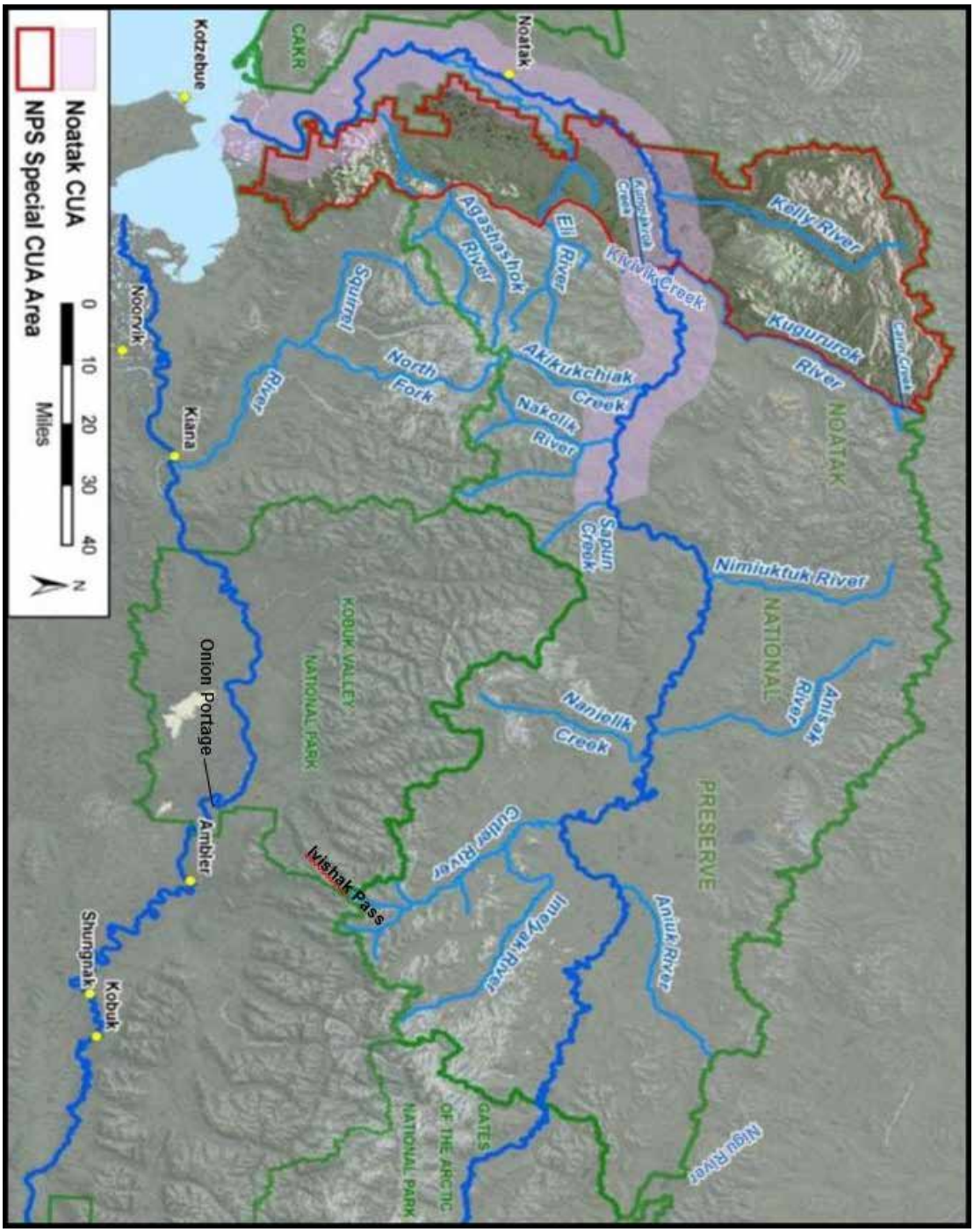
the Noatak Controlled Use Area in 1988 (Fall 1990:87), which was expanded in 1994 (**Map 2**). The Noatak Controlled Use Area consists of a 10-mile wide corridor along the Noatak River from its mouth to Sapun Creek. This area is closed from Aug. 15–Sept. 30 to the use of aircraft in any manner for hunting big game including transportation of big game hunters, their hunting gear, and/or parts of big game. Approximately 80 miles of the Noatak Controlled Use Area are within Noatak National Preserve (Betchkal 2015, Halas 2015). Big game present in Unit 23 are caribou, moose, Dall sheep, muskoxen, black and brown bears, and wolves. These regulations apply on State, private, and Federal public lands.

In 1995, the Federal Subsistence Board adopted Proposal P95-51 to increase the caribou harvest limit from 5 caribou per day to 15 caribou per day so that subsistence hunters could maximize their hunting efforts when caribou were available (FWS 1995a).

In 1997 the WACH Working Group was established and is "a formal cooperative multi-stakeholder body of user groups to review and provide advice on caribou management policy for the herd. The initial [management plan] was written in 2003, and revised in 2011" (Halas 2015:37). There is a 20-seat members board made up of subsistence hunters, conservationists, an aircraft transporter representative, hunting guide's representatives, and a member of the Reindeer Herders Association. The working group meets annually. A Technical Committee of biologists and managers advise working group members (Halas 2015, WACH Working Group 2011).

In 2001 and 2002 the Alaska Board of Game considered a proposal to establish a controlled use area along a 25-mile corridor of the Kobuk River upstream of Kobuk, Ambler, and Shungnak from the Mauneluk River to the Selby River. The Board of Game did not adopt this proposal (Braem et al. 2015). To address ongoing user conflict concerns in Unit 23, ADF&G facilitated the establishment of the Unit 23 Working Group in 2008 (Braem et al. 2015).

The Unit 23 Working Group was established in 2008 to address fall hunting related issues and to develop solutions to cooperatively solve conflict (ADF&G 2016d). It is made up of 20 members that include representatives of regional and tribal governments and organizations, land and wildlife management agencies, the Big Game Commercial Services Boards, the Alaska Professional Hunters Association



Map 2. The boundaries of the State of Alaska Noatak Controlled Use Area and the National Park Service Special Commercial Use Area in Unit 23 (Halas 2015).

(including representatives from hunting guide and transport industries), Fish and Game Advisory Committees, the Northwest Arctic Subsistence Regional Advisory Council, the Board of Game, and the Federal Subsistence Board (ADF&G 2016d).

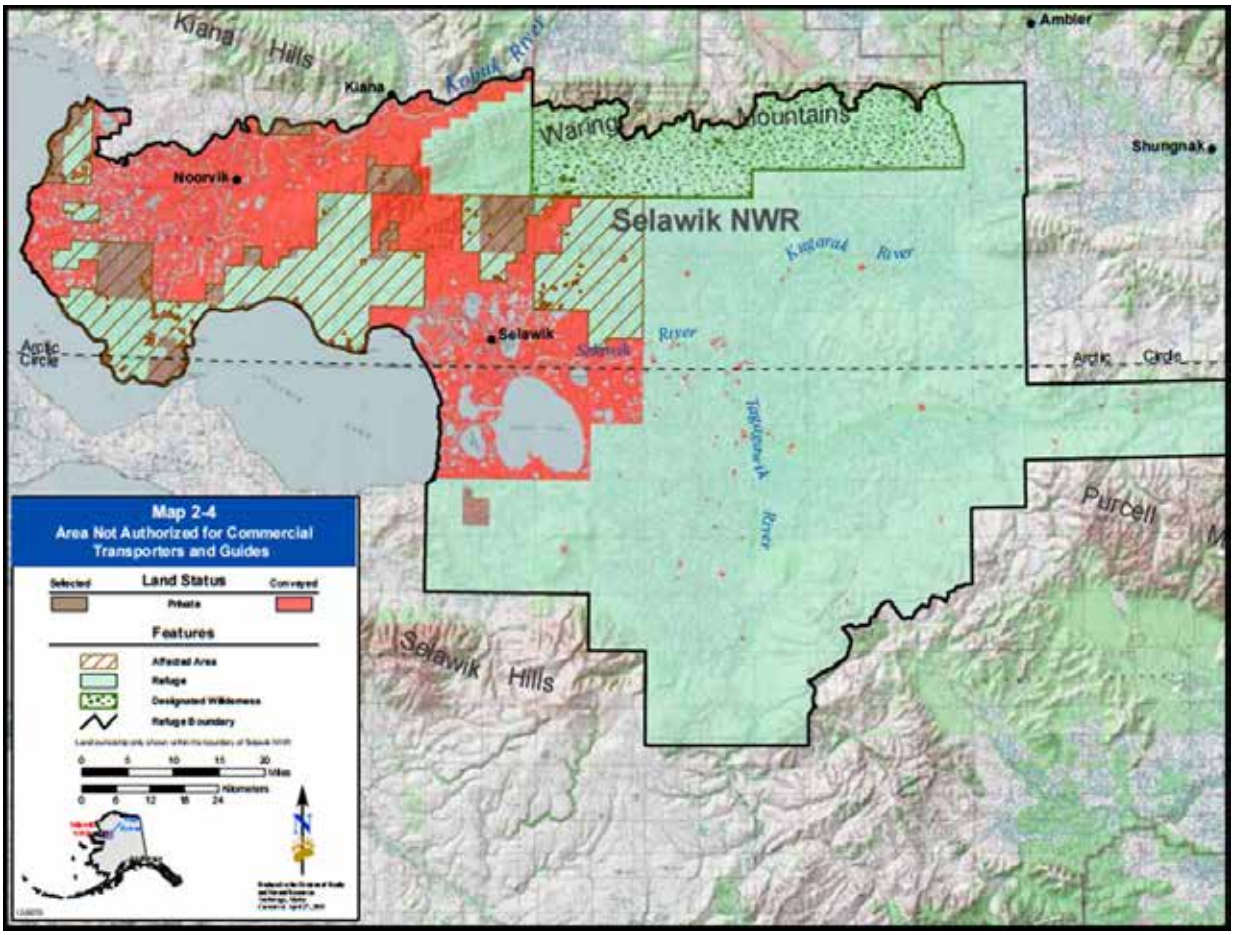
In 2011, the Selawik National Wildlife Refuge revised its comprehensive conservation plan (CCP) to include restrictions on commercial uses in the western portion of the refuge (**Map 3**, FWS 2011). The commercial use restrictions for transporters and guides were implemented in the 2011 CCP as a means of proactively addressing user conflicts in the Selawik National Wildlife Refuge. The northwest portion of the refuge receives high subsistence use from nearby communities and is a mix of Federal public lands, Alaska Native Corporation lands, and numerous allotments. For these reasons, the refuge proposed in its CCP that certain refuge lands in this portion of the refuge not be authorized for commercial guiding and transporting. The CCP explains: "During fall hunting season, the situation in this patchwork area requires managers to take a proactive stance when permitting commercial uses to reduce conflicts among hunters and trespass on private lands. . . . Use by commercial guides and transporters for big game hunting is not authorized by permit stipulation on refuge lands in close proximity to private lands in the northwest portion of the refuge where refuge lands are intermingled in private lands." Most, if not all, of the commercial guiding and transporting on the refuge took place in the eastern half of the refuge where a high quality hunting experience for non-FQSUs was more readily available. For this reason, commercial guides and transporters were not displaced by this action (Georgette 2016, pers. comm.).

In 2012, NPS established a Special Commercial Use Area that acts as a "delayed entry zone" in the western portion of the Noatak National Preserve (**Map 2**, Fix and Ackerman 2015, Halas 2015). Within the delayed entry zone, commercial transporters can transport caribou hunters only after September 15. The purpose of this zone is to allow a sufficient number of caribou to cross the Noatak River, establish migration routes, and allow "local"[1] hunters the first opportunity to harvest caribou in that area (FWS 2014). Halas (2015:23) stated that "the Superintendent may consult with commercial operators, other agencies, and local villages to offer earlier or delayed caribou hunting access in the area for "nonlocal" hunters, depending on the WAH [Western Arctic Herd] migration in a given year." To date, the superintendent has not used his/her authority to alter the dates or areas of closures to reflect changes in caribou herd migration and to meet the needs of "local" hunters.

The BLM is in the process of completing the Squirrel River Special Recreation Management Plan, which will address the allocation of Special Recreation Permits (required for guide and transport activities), and will include an analysis under Section 810 of ANILCA (Unit 23 Working Group 2016).

In March 2015, the Alaska Board of Game, in response to declines in the population of the WACH and Teshekpuk Caribou Herds (TCH), adopted Record Copy 76. This included a series of modifications to Proposal 202 that sought to prohibit the harvest of calves in Unit 23 among other changes to State regulations in various wildlife management units. The ADF&G biologist Jim Dau provided the Board of Game with a presentation on the state of the WACH and indicated that action was necessary to curb the ongoing declines (ADF&G 2015a). Among his major points were a continued population decline, a reaching or exceeding of the harvestable surplus, and continued declines in bull:cow ratios. Dau (ADF&G

[1] Halas (2015) does not define this term. Presumably these hunters reside within the natural range of the WACH.



Map 3. The Selawik National Wildlife Refuge showing in brown cross hatch the areas not authorized for transporters and guides (FWS 2011).

2015a) also indicated the herd trajectory was toward the Preservative Management mode and that the population numbers at the time of the meeting could already warrant it. He additionally suggested that the herd could approach the "critical" harvest management level within a few years.

Dau explained the importance of Record Change 76 and the impact on area communities (ADF&G 2015a): "It [proposal 202] wouldn't have saved many caribou; it wouldn't have affected many people. The only teeth in this whole thing are in RC 76 and all these teeth come from these advisory committees and different groups . . . . All these villages, all these ACs [Advisory Committees] are willing to restrict themselves. As important as caribou are, they're willing to take the hit." Dau did not speculate as to the degree of effect that the proposed regulatory changes would have on the WACH. He did acknowledge the hard work of many groups and people in developing a series of changes that he agrees were necessary given the recent and projected decline.

In the portion of Unit 23 north of and including the Singoalik River drainage, the harvest season for bulls was shortened by Record Copy 76 from year round to Jul. 1–Oct. 14 and Feb. 1–Jun. 30, and the harvest season for cows was shortened from Jul. 1–May 15 to Jul. 15–Apr. 30. In Unit 23 remainder, the harvest season for bulls was shortened from year round to Jul. 1–Oct. 14 and Feb. 1–Jun. 30, and the harvest season

for cows was shortened from Jul. 1–May 15 to Sept. 1–Mar. 31. The harvest limit remained five caribou per day. For nonresidents of Alaska hunting in Unit 23, the harvest limit was reduced from 5 caribou per year to 1 bull per year and the harvest season was shortened from Oct. 1–Apr. 30 to Aug. 1–Sept. 30. These new State regulations were effective July 1, 2015 (ADF&G 2016a).

At its winter 2015 meeting, the North Slope Subsistence Regional Advisory Council (Council) submitted WSA15-03/04/05/06 requesting, among other things, establishment of a new hunt area for caribou in the northwest corner of Unit 23 north of and including the Singoalik River drainage. The requests were in response to the recently enacted Board of Game Record Copy 76 (originally proposed as proposal 202) and meant to enact Federal subsistence caribou conservation measures on Federal public lands across the range of the WACH that would take effect at the same time as the new State regulations. In the new hunt area, the harvest limit would be reduced from 15 caribou per day to 5 caribou per day, the harvest season for bulls would be reduced from year round to Jul. 1–Oct. 14 and Feb. 1–Jun. 30, the harvest season for cows would be reduced from Jul. 1–May 15 to Jul. 15–Apr. 30, and the take of calves would be prohibited (FWS 2016a).

The Board approved WSA15-03/04/05/06 with modification. In all of Unit 23, it reduced the Federal subsistence harvest limit to 5 caribou per day, reduced the harvest season for bulls to Jul. 1–Oct. 14 and Feb. 1–Jun. 30, reduced the harvest season for cows to Jul. 1–Mar. 31, prohibited the harvest of calves, and prohibited the harvest of cows with calves. The additional restrictions were deemed necessary to support recovery of the caribou population and because the Alaska Board of Game had recently adopted caribou hunting restrictions starting in the 2015/2016 regulatory year (described above). The Board felt that general alignment of State and Federal regulations would provide for consistency and reduce the regulatory complexity for FQSUs (FWS 2016a). The temporary modifications to existing regulations were effective July 1, 2015 until June 30, 2016.

Also at its Winter 2015 meeting, the North Slope Council submitted Proposals WP16-61/62/63/64, which closely mirrored the above wildlife special action, so that these caribou conservation measures would be enacted into regulation during the regular regulatory cycle, become effective July 1, 2016, and provide ongoing conservation measures for the WACH and TCH on Federal public lands. The Council cited ongoing concerns for the declining herd and support from communities in the region to reduce subsistence harvest in an effort to help the herd's recovery (NSRAC 2015).

At its winter 2015 meeting, the Northwest Arctic Council submitted Wildlife Proposal WP16-49 concerning Unit 23 requesting that the Board shorten the bull harvest season to Jul. 1–Oct 9 and Feb. 1–June 30, shorten the cow harvest season to Jul. 1–May 31, prohibit the harvest of cows with calves Jul. 1–Oct. 10, and reduce the harvest limit to 5 caribou per day. At its winter 2016 meeting, the Northwest Arctic Council recommended the Board adopt the proposal with modification to extend the bull harvest season end date to Oct. 31, move forward the opening date of the cow harvest season to Jul. 31, prohibit the harvest of cows with calves Jul. 31–Oct. 10, and prohibit the take of calves. The North Slope Council recommended the Board adopt the proposal with the Office of Subsistence Management (OSM) modification that would establish a new hunt area in the northwest portion of Unit 23 and change the harvest limit and seasons in Unit 23 to be consistent with State regulations to avoid confusion. The Western Interior and Seward

Peninsula Subsistence Regional Advisory Councils took no action, although residents in their regions have C&T determinations for caribou in Unit 23.

In April 2016, the Board took no action on WP16-49/52/61/62/63/64 because of action it took on WP16-37, which proposed regulatory changes in units throughout the WACH's range. The Board adopted WP16-37 with modification and, among other changes in other wildlife management units, established a new hunt area in the northwest portion of Unit 23, and adopted almost all of the Northwest Arctic Council's recommendations with minor modifications. The Council had recommended prohibiting the harvest of cows with calves Jul. 31–Oct. 10. The Board prohibited the harvest of cows with calves in the new hunt area in Unit 23 from Jul. 15 to Oct. 14 and in the remainder area of Unit 23 from Jul. 31 to Oct. 14. The new regulations were effective July 1, 2016.

At its fall 2015 meeting, the Northwest Arctic Council submitted WSA16-01 requesting that the Board close Federal public lands in Unit 23 to the harvest of caribou except by FQSUs. While many communities reported a successful caribou harvest for the year, concerns regarding the size of the herd, user conflicts, and declining opportunities to harvest were expressed. Several Council members provided testimony attesting to hardships experienced as a result of these issues, often reiterating that subsistence was about more than putting food on the table; it included deeply rooted cultural components that have been informed by intergenerational experiences tied to local landscapes. The Council approved the submission of WSA16-01 because of the uncertainty of how newly approved regulations would impact the herd, along with that State's inability to produce accurate population estimates for the year due to poor light conditions encountered during aerial surveys, and the degradation of meaningful subsistence activities due to user conflicts. Council members acknowledged that the special action would represent a one year trial, the action's effects would be subsequently evaluated, and that the special action was a tool provided to them by Title VIII ANILCA to protect subsistence uses (NWARAC 2015).

March 2016, the Northwest Arctic Council met, in Anchorage. During its meeting, members reported both positive and negative observations of fall caribou harvest and migration (NWARAC 2016). Caribou were reported to have migrated in proximity to both Noorvik and Kotzebue, enabling harvest by residents of those communities. In contrast, members reported that Kobuk did not harvest enough caribou and that there were no caribou observed in the Upper Kobuk River drainage during the winter. Several members indicated that the animals appeared healthy, but the members were concerned about the impacts of a very mild winter on the health of caribou. Some mentioned that the fall herd movements appeared to be occurring later each year. One member indicated that in his area harvest had increased relative to recent years, but the difficulty and expense of harvest remained high, user conflicts remained unresolved, and herd population numbers were unavailable and questionable.

The Northwest Arctic and North Slope Councils held a joint meeting on March 11, 2016, in Anchorage to make a recommendation on WSA16-01 and to hear agency and public comments on the special action request (NWARAC and NSRAC 2016). Both Councils recommended the Board approve WSA16-01 because caribou population estimates were flawed and recent data was lacking, harvest estimates for non-FQSUs were skewed, that FQSUs have better knowledge of local conditions than agency staff, and the Council submitted WSA16-01 to the Board for valid reasons. The State reported opposition while the

NANA Regional Corporation made a statement of support. Both Councils voted to support WSA16-01. The Seward Peninsula Subsistence Regional Advisory Council opposed the action, citing the effectiveness of the WACH Management Plan, that the special action would shift pressure to State land, and that the effect of new regulations had not yet been evaluated. The Western Interior Subsistence Regional Advisory Council abstained from voting on the matter, deferring to the Council where Unit 23 is located (the Northwest Arctic Council).

At its public meeting in April 2016, the Board approved WSA16-01, closing Federal public lands in Unit 23 to non-FQSUs for the Jul. 1, 2016 to Jun. 30, 2017 regulatory year.

The Board determined that there was sufficient evidence indicating that the closure was necessary to allow for the continuation of subsistence uses and for conservation of a healthy caribou population as mandated under ANILCA Section 815. Evidence included public testimony expressed to the Board by residents of the area, the position of two affected Councils (Northwest Artic and North Slope), and the current status of the herd. The Board concluded that a closure to all but FQSUs was consistent with providing a subsistence priority for use of the resource and assurance that a rural preference was being provided, and recognized the cultural and social aspects of subsistence activities, which may be hampered by direct interaction between local and non-local users. The temporary change to existing regulations was effective July 1, 2016.

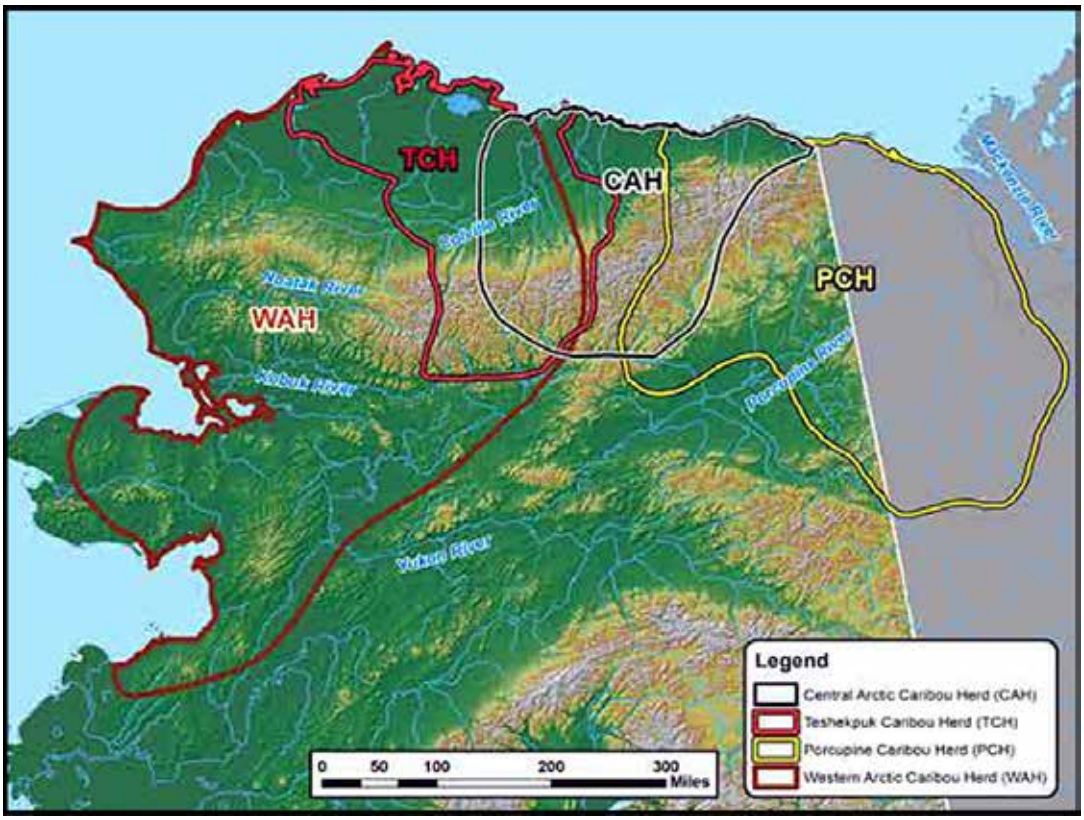
Biological Background

Caribou abundance naturally fluctuates over decades (Gunn 2001, WACH Working Group 2011). Gunn (2001) reports the mean doubling rate for Alaskan caribou as 10 ± 2.3 years. Although the underlying mechanisms causing these fluctuations are uncertain, Gunn (2001) suggests climatic oscillations as the primary factor, exacerbated by predation and density-dependent reduction in forage availability, resulting in poorer body condition.

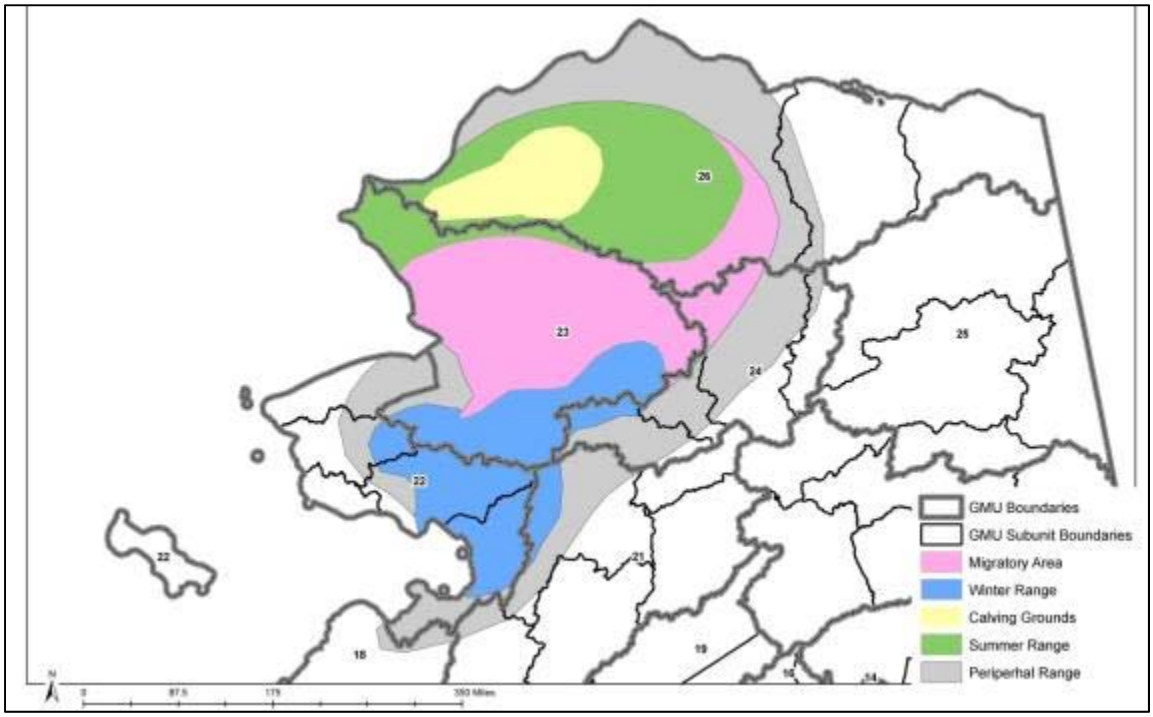
Caribou calving generally occurs from late May to mid-June (Dau 2013). Weaning generally occurs in late October and early November before the breeding season (Taillon et al. 2011). Calves stay with their mothers through their first winter, which improves calves' access to food and body condition (Holand et al. 2012). Calves orphaned after weaning (October) have greater chances of survival than calves orphaned before weaning (Holand et al. 2012, Joly 2000, Russell et al. 1991, Rughetti and Fest-Bianchet 2014).

The TCH, WACH, and Central Arctic Caribou Herd have ranges that overlap in Unit 26A (**Map 4**), and there can be considerable mixing of herds during the fall and winter. During the early 2000s, the total number of caribou among the various herds wintering on the North Slope peaked at over 700,000 animals (this includes the Porcupine Caribou Herd in northeast Alaska and Northwest Territories, Canada), which may be the highest number since the 1970s. During the 1970s, there was little overlap between these four herds, but the degree of mixing seems to be increasing (Dau 2011, Lenart 2011, Parrett 2011).

The WACH has historically been the largest caribou herd in Alaska and has a home range of approximately 157,000 square miles in northwestern Alaska. In the spring, most mature cows move north to calving grounds in the Utukok Hills, while bulls and immature cows lag behind and move toward summer range in the Wulik Peaks and Lisburne Hills (**Map 5**, Dau 2011, WACH Working Group 2011).



Map 4. Herd overlap and ranges of the WACH, TCH, CACH, and PCH (Parrett et al. 2014).



Map 5. Range of the WACH.

Dau (2013) determined the calving dates for the WACH to be June 9–13. This is based upon long-term movement and distribution data obtained from radio-collared caribou (these are the dates cows ceased movements). After the calving period, cows and calves move west toward the Lisburne Hills where they mix with bulls and non-maternal cows. During the summer the herd moves rapidly to the Brooks Range.

In the fall, the herd moves south toward wintering grounds in the northern portion of the Nulato Hills. The caribou rut occurs during fall migration (Dau 2011, WACH Working Group 2011). Dau (2013) determined the WACH rut dates to be October 22–26. This is based on back-calculations from calving dates using a 230-day gestation period. Since about 2000, the timing of fall migration has been less predictable, often occurring later than in previous decades (Dau 2015a). In recent years (2012–2014), the path of fall migration has shifted east (Dau 2015a).

The WACH Working Group developed a WACH Cooperative Management Plan in 2003 and revised it in 2011 (WACH Working Group 2011). It identifies seven plan elements: cooperation, population management, habitat, regulations, reindeer, knowledge, and education as well as associated goals, strategies, and management actions. As part of the population management element, the WACH Working Group developed a guide to herd management determined by population size, population trend, and harvest rate. Population sizes guiding management level determinations were based on recent (since 1970) historical data for the WACH (WACH Working Group 2011). The guide was revised in December 2015 (WACH Working Group 2015, **Table 2**). The State of Alaska manages the WACH to protect the population and its habitat, provide for subsistence and other hunting opportunities on a sustained yield basis, and provide for viewing and other uses of caribou (Dau 2011). State management objectives for the WACH are the same as the goals specified in the WACH Management Plan (Dau 2011, WACH Working Group 2011) and include:

- Encourage cooperative management of the WACH among State, Federal, local entities, and all users of the herd.
- Manage for healthy populations using management strategies adapted to fluctuating population levels and trends.
- Assess and protect important habitats.
- Promote consistent and effective State and Federal regulations for the conservation of the WACH.
- Seek to minimize conflict between reindeer herders and the WACH.
- Integrate scientific information, traditional ecological knowledge of Alaska Native users, and knowledge of all users into management of the herd.
- Increase understanding and appreciation of the WACH through the use of scientific information, traditional ecological knowledge of the Alaska Native users, and knowledge of all other users.

Table 2. Western Arctic Caribou Herd management levels using herd size, population trend, and harvest rate adopted by the WACH Working Group in 2011 (WACH Working Group 2011, 2015).

Management and Harvest Level	Population Trend[a]			Harvest Recommendations May Include:
	Declining Low: 6%	**Stable Med: 7%**	**Increasing High: 8%**	
Liberal	Pop: 265,000+	Pop: 230,000+	Pop: 200,000+	• Reduce harvest of bulls by nonresidents to maintain at least 40 bulls: 100 cows • No restriction of bull harvest by resident hunters unless bull:cow ratios fall below 40 bulls:100 cows
	Harvest: 18,550-24,850	Harvest: 16,100-21,700	Harvest: 16,000-21,600	
Conservative	Pop: 200,000-265,000	Pop: 170,000-230,000	Pop: 150,000-200,000	• No harvest of calves • No cow harvest by nonresidents • Restriction of bull harvest by nonresidents • Limit the subsistence harvest of bulls only when necessary to maintain a minimum 40:100 bull:cow ratio
	Harvest: 12,000-18,550	Harvest: 11,900-16,100	Harvest: 12,000-16,000	
Preservative	Pop: 130,000-200,000	Pop: 115,000-170,000	Pop: 100,000-150,000	• No harvest of calves • Limit harvest of cows by resident hunters through permit hunts and/or village quotas • Limit the subsistence harvest of bulls to maintain at least 40 bulls:100 cows • Harvest restricted to residents only, according to state and federal law. Closure of some federal public lands to nonqualified users may be necessary
	Harvest: 8,000-12,000	Harvest: 8,000-12,000	Harvest: 8,000-12,000	
Critical Keep Bull:Cow ratio ≥ 40 Bulls:100 Cows	Pop: < 130,000	Pop: < 115,000	Pop: < 100,000	• No harvest of calves • Highly restrict the harvest of cows through permit hunts and/or village quotas • Limit the subsistence harvest of bulls to maintain at least 40 bulls:100 cows • Harvest restricted to residents only, according to state and federal law. Closure of some federal public lands to nonqualified users may be necessary
	Harvest: 6,000-8,000	Harvest: 6,000-8,000	Harvest: 6,000-8,000	

[a] There are indications in a draft summary of the Working Group's December 2015 meeting that the Working Group's Technical Committee proposed changes to the table (Selawik National Wildlife Refuge 2016).

The WACH population declined rapidly in the early 1970s and bottomed out at about 75,000 animals in 1976. Aerial photo censuses have been used since 1986 to estimate population size. The WACH population increased throughout the 1980s and 1990s, peaking at 490,000 animals in 2003 (**Figure 1**). Since 2003, the herd has declined at an average annual rate of 7.1% from approximately 490,000 caribou in 2003 to 234,757 caribou in 2013 and a 15% annual decline between 2011 and 2013 (Caribou Trails 2014; Dau 2011, 2014).

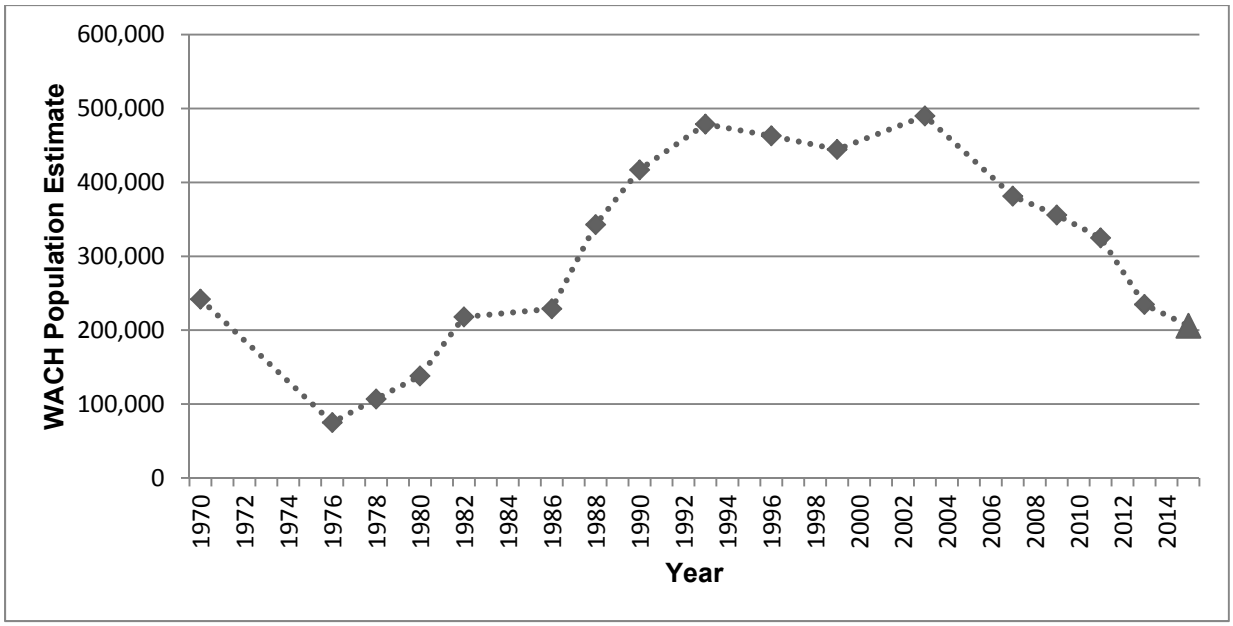


Figure 1. The WACH population estimates from 1970 to 2015. Population estimates from 1986 to 2015 are based on aerial photographs of groups of caribou that contained radio-collared animals (Dau 2011, 2013, 2014; Parrett 2016b)**.**

Between 1982 and 2011, the WACH population was within the liberal management level prescribed by the WACH Working Group (**Table 2**). In 2013, the herd population estimate fell below the population threshold for liberal management of a decreasing population (265,000), slipping into the conservative management level. In July 2015, ADF&G attempted an aerial photo census of the herd. However, the photos taken could not be used due to poor light conditions that obscured unknown portions of the herd (Dau 2015b). ADF&G was able to conduct a successful photocensus of the WACH on July 1, 2016. This census resulted in a minimum count of 194,863 caribou with a point estimate of 200,928 (Standard Error = 4,295), suggesting the WACH is still within the conservative management level, although close to the threshold for preservative management (**Figure 1, Table 2**). Results of this census indicate an average annual decline of 5% per year since 2013, representing a much lower rate than the 15% annual decline between 2011 and 2013. It was also noted that the cohorts of 2015 and 2016 are large and make up a large proportion of the herd currently. Over-winter survival rates of these cohorts should assist managers with determining the potential growth rate of the WACH in coming years (Parrett 2016b). The ADF&G recommends another photocensus survey be conducted in 2017 to verify that the population has not fallen below the conservative/preservative management threshold, as outlined in the WACH Working Group Cooperative Management Plan (**Table 2**).

In its special action request, received in June 2016, the State provided a WACH preliminary population estimate of 206,000 caribou from a population model based on newly acquired population metrics, including calf survival and recruitment data (Dau 2016a, 2016b; Parrett 2015c; Parrett 2016a, pers. comm.). While the model suggests a decreased rate of decline, a downward or leveling trend is still implied. This deterministic spreadsheet model was adapted from a model used for the Mulchatna Caribou Herd and does not incorporate error for each of the population metrics (Parrett 2016a, pers. comm.). This preliminary estimate represents a decline of 12.3% since the last population estimate in 2013.

Between 1970 and 2014, the bull:cow ratio exceeded the management threshold of 40 bulls:100 cows in all years except 1975, 2001, and 2014 (**Figure 2**). Reduced sampling intensity in 2001 likely biased the 2001 bull:cow ratio low (Dau 2013). However, the low bull:cow ratio (39 bulls:100 cows) observed in 2014 is expected to continue declining (Parrett 2015b). Since 1992, annual bull:cow ratios have trended downward (Dau 2015a). The average annual number of bulls:100 cows was greater during the period of population growth (54:100 between 1976 and 2001) than during the recent period of decline (45:100

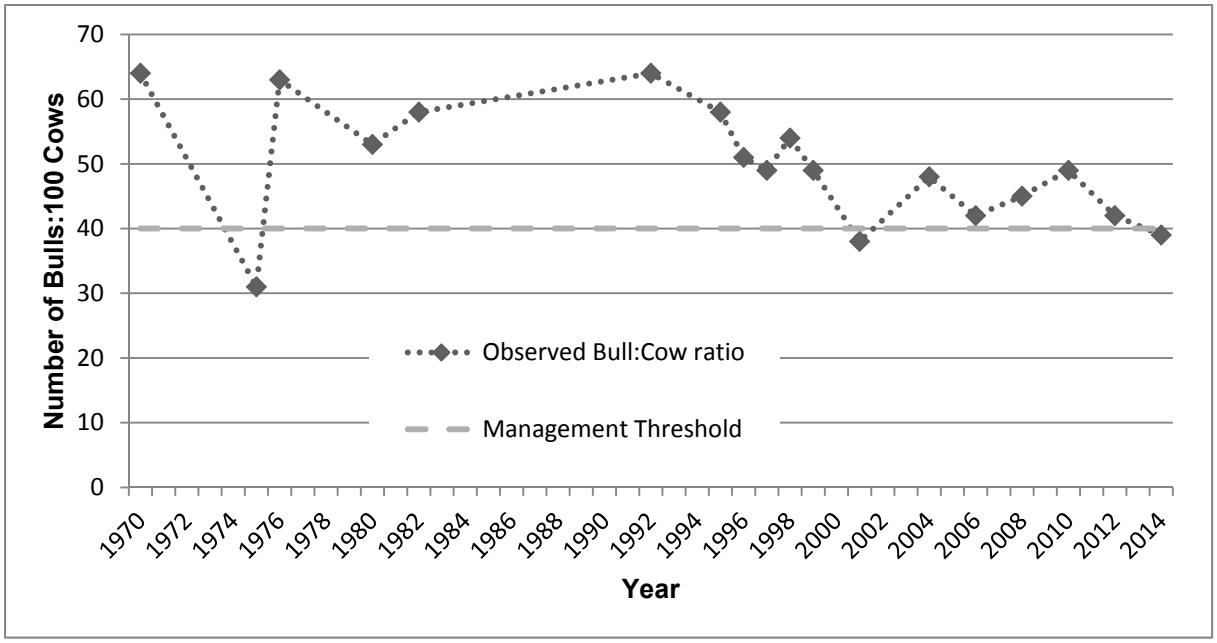


Figure 2. Western Arctic Caribou Herd bull:cow ratios 1970–2015 (Dau 2015a).

between 2004 and 2014). Additionally, Dau (2015a) states that while reported trends in bull:cow ratios were accurate, actual values should be interpreted with caution due to sexual segregation during sampling and the inability to sample the entire population, which likely account for more annual variability than actual changes in composition.

Although factors contributing to the decline are not known with certainty, increased adult cow mortality, and decreased calf recruitment and survival played a role (Dau 2011). Since the mid-1980s, adult mortality has slowly increased while recruitment has slowly decreased (Dau 2013, **Figure 3**). In a population model developed specifically for the WACH, Prichard (2009) found adult survival to have the largest impact on population size.

Calf production has likely had little influence on the population trajectory (Dau 2013, 2015a). Between 1990 and 2003, the June calf:cow ratio averaged 66 calves:100 cows/year. Between 2004 and 2015, the June calf:cow ratio averaged 70 calves:100 cows/year (**Figure 3**). In the State's special action request, it cited new information that included results of fieldwork conducted in June 2016 when 85 calves:100 cows were observed, which approximates the highest parturition level ever recorded for the herd (86 calves:100 cows in 1992) (Dau 2016a).

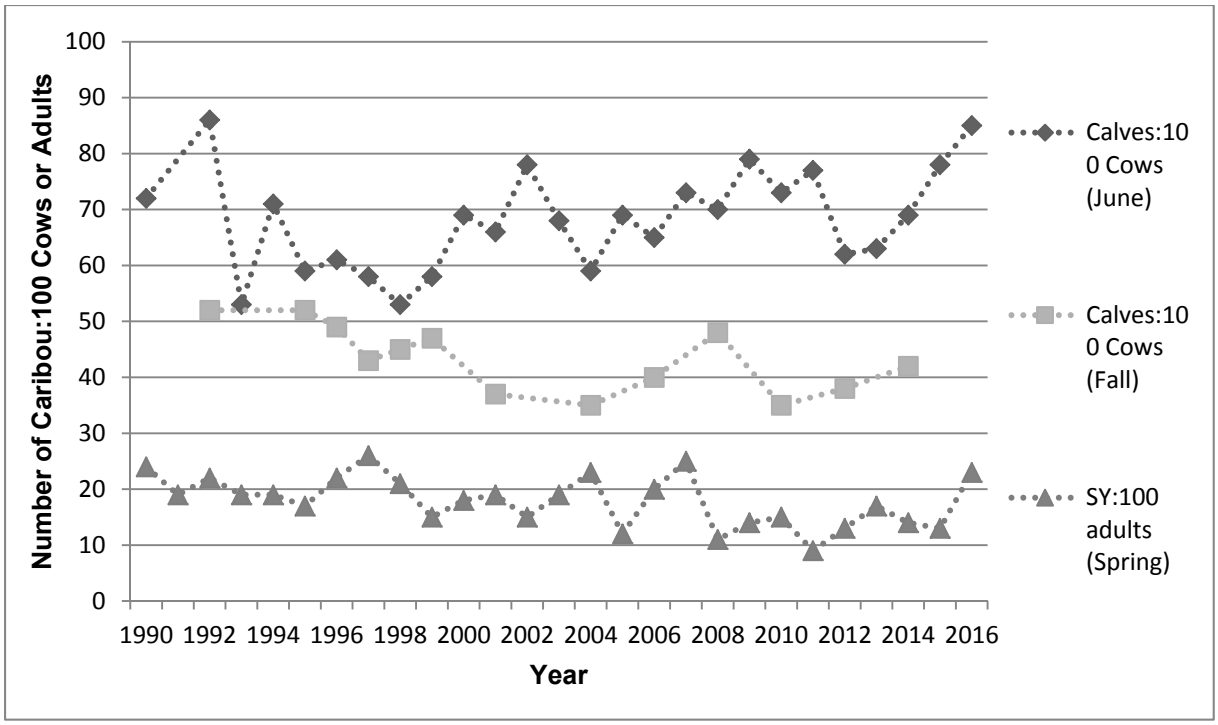


Figure 3. Calf:cow and short yearling (SY):adult ratios for the Western Arctic Caribou Herd (Dau 2013, 2015a, 2016a). Short yearlings are 10–11 month old caribou.

Decreased calf survival through summer and fall and recruitment into the herd are likely contributing to the current population decline (Dau 2013, 2015a). The ratio of short yearlings (SY, 10–11 months old caribou) to adults provides a measure of overwintering calf survival and recruitment. Between 1990 and 2003, SY:adult ratios averaged 20 SY:100 adults/year. Since the decline began in 2003, SY:adult ratios have averaged 16 SY:100 adults/year (2004–2015, **Figure 3**). However, 23 SY:100 adults were observed during spring 2016 surveys, the highest ratio recorded since 2007 (Dau 2016b). In its special action request, the State stated that overwinter calf survival for the 2015 cohort was currently 82%. While 2016 measures suggest improvements in recruitment, the overall trend since the early 1980s has been downward (Dau 2015a).

Similarly, fall calf:cow ratios indicate calf survival over summer. Between 1976 and 2014, the fall calf:cow ratio ranged from 35 to 59 calves:100 cows/year, averaging 46 calves:100 cows/year (**Table 3**, **Figure 3**). Fall calf:cow ratios declined from an average of 46 calves:100 cows/year between 1990 and 2003 to an average of 40 calves:100 cows/year between 2004 and 2015 (Dau 2015a, **Figure 3**). Since 2008, ADF&G has recorded calf weights at Onion Portage as an index of herd nutritional status. In the State's special action request, it noted new information that in September 2015, calf weights averaged 100 lbs., the highest average ever recorded (Parrett 2015c).

Increased cow mortality is likely affecting the trajectory of the herd (Dau 2011, 2013). The annual mortality rate of radio-collared adult cows increased from an average of 15% between 1987 and 2003, to 23% from 2004 to 2014 (Dau 2011, 2013, 2014, 2015a, **Figure 4**). Estimated mortality includes all causes of death including hunting (Dau 2011). Dau (2015a) states that cow mortality estimates are conservative

Table 3. Western Arctic Caribou Herd fall composition, 1976–2014 (Dau 2011, 2013, 2014, 2015b).

Regulatory Year	Total bulls: 100 cows[a]	Calves: 100 cows	Calves: 100 adults	Bulls	Cows	Calves	Total
1976/1977	63	52	32	273	431	222	926
1980/1981	53	53	34	715	1,354	711	2,780
1982/1983	58	59	37	1,896	3,285	1,923	7,104
1992/1993	64	52	32	1,600	2,498	1,299	5,397
1995/1996	58	52	33	1,176	2,029	1,057	4,262
1996/1997	51	49	33	2,621	5,119	2,525	10,265
1997/1998	49	43	29	2,588	5,229	2,255	10,072
1998/1999	54	45	29	2,298	4,231	1,909	8,438
1999/2000	49	47	31	2,059	4,191	1,960	8,210
2001/2002	38	37	27	1,117	2,943	1,095	5,155
2004/2005	48	35	24	2,916	6,087	2,154	11,157
2006/2007	42	40	28	1,900	4,501	1,811	8,212
2008/2009	45	48	33	2,981	6,618	3,156	12,755
2010/2011	49	35	23	2,419	4,973	1,735	9,127
2012/2013	42	38	27	2,119	5,082	1,919	9,120
2014/2015	39	42	30	2,384	6,082	2,553	11,019

[a] 40 bulls:100 cows is the minimum level recommended in the WACH Cooperative Management Plan (WACH Working Group 2011)

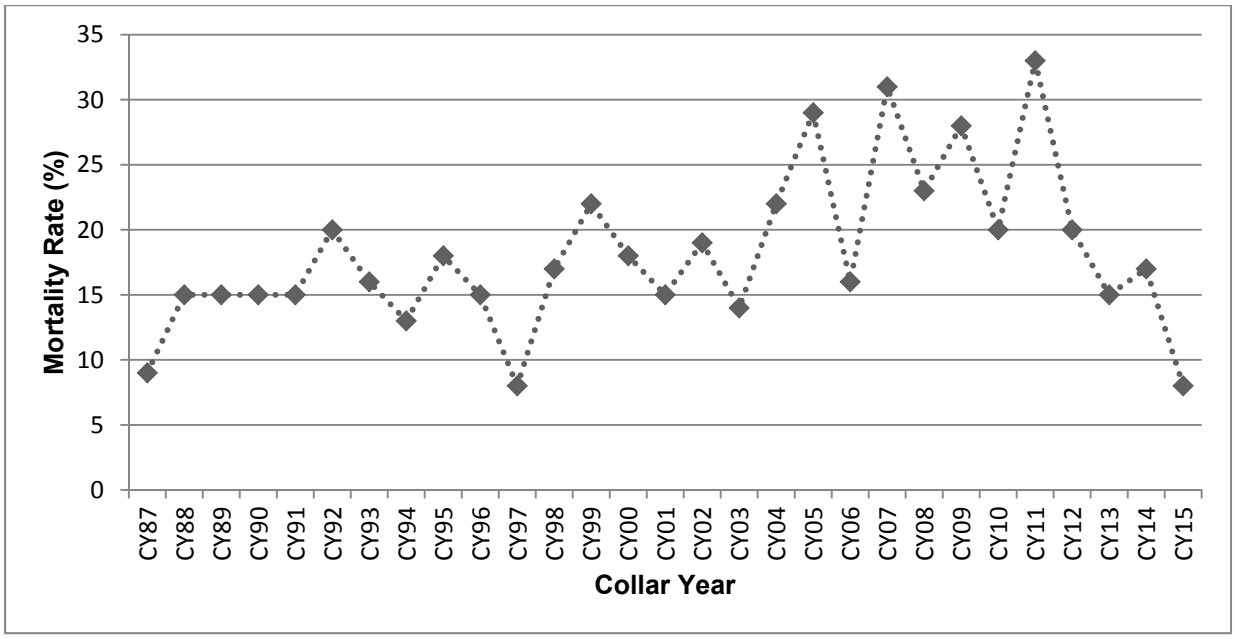


Figure 4. Mortality rate of radio-collared caribou in the WACH (Dau 2013, 2015a, 2016b). Collar year = Oct. 1–Sept. 30, except 2015 collar year = Oct. 2015–Apr. 2016.

due to exclusion of unhealthy (i.e., diseased) and yearling cows. Dau (2013) attributed the high mortality rate for 2011 (33%, **Figure 4**) to a winter with deep snows, which weakened caribou and enabled wolves to prey on them more easily. Prior to 2004, estimated adult cow mortality only exceeded 20% twice, but has exceeded 20% in 7 out of 9 regulatory years between 2004 and 2012 (**Figure 4**). The State's special action request included new information that the annual mortality rate was 8% as of April 2016 (Dau 2016b). This may fluctuate substantially throughout the year based on changing local conditions and harvest levels. Dau (2015a) indicates that mortality rates may also change in subsequent management reports as the fate of collared animals is determined, and that these inconsistencies are most pronounced for the previous 1–3 years.

Far more caribou died from natural causes than from hunting between 1992 and 2012. Cow mortality remained constant throughout the year. However, natural and harvest mortality for bulls spiked during the fall. Predation, particularly by wolves, accounted for the majority of the natural mortality (Dau 2013). However as the WACH has declined and estimated harvest has remained relatively stable, the percentage of mortality due to hunting has increased relative to natural mortality. For example, during the period October 1, 2013 to September 30, 2014, estimated hunting mortality was approximately 42% and estimated natural mortality about 56% (Dau 2014). In previous years (1983–2013), the estimated hunting mortality exceeded 30% only once, in 1997–1998 (Dau 2013). Additionally, Prichard (2009) and Dau (2015a) suggest that harvest levels and rates of cows can greatly impact population trajectory. If bull:cow ratios continue to decline, harvest of cows may increase, exacerbating the current population decline.

Dau (2015a) cites fall and winter icing events as the primary factor initiating the population decline in 2003. Increased predation, hunting pressure, deteriorating range condition (including habitat loss and fragmentation), climate change, and disease may also be contributing factors (Dau 1015a, 2014). Joly et al. (2007) documented a decline in lichen cover in portions of the wintering areas of the WACH. Dau (2011, 2014) reported that degradation in range condition is not thought to be a primary factor in the decline of the herd because animals have generally maintained good body condition since the decline began. The body condition of adult females in 2015 were characterized as "fat" (mean=3.9/5) with no caribou being rated as skinny or very skinny (Parrett 2015c). However, the body condition of the WACH in the spring may be a better indicator of the effects of range condition versus the fall when the body condition of the herd is routinely assessed and when caribou are in prime condition (Joly 2015, pers. comm.).

Habitat

Caribou feed on a wide variety of plants including lichens, fungi, sedges, grasses, forbs, and twigs of woody plants. Arctic caribou depend primarily on lichens during the fall and winter, but during summer they feed on leaves, grasses and sedges (Miller 2003).

Harvest History

Harvest from the Western Arctic Caribou Herd

Western Arctic Herd caribou harvests by Federally qualified subsistence users (FQSU) have been estimated from community harvest surveys because Alaska residents living and hunting caribou north of the Yukon

River were not required to obtain harvest tickets or report their harvests. However, harvest surveys have not been conducted every year (**Appendix 1**). Consequently, staff at the Division of Wildlife Conservation at ADF&G developed a model that used household harvest surveys, community size, and proximity to the herd to estimate annual harvests of caribou by residents of communities situated within the range of the WACH, defined as local hunters in the following discussion (**Table 4**, Sutherland 2005). In 2014 the model had not been updated with additional community harvest data since its development in 2005, and in 2015 a new model was implemented (see Dau 2015a). Dau (2015a) indicates that the model reflects harvest trends reasonably accurately, but not annual harvest levels or harvest levels by unit. Consequently, community harvest levels and harvest by wildlife management units were not reported in Dau (2015a).

Table 4. Communities situated within the range of the WACH and considered local hunters in ADF&G management reports (Dau 2013).

Local Hunters of Western Arctic Caribou Herd	
Unit of Residence	**Community**
Unit 21D west of the Koyukon and Yukon Rivers and Galena	Galena, Kaltag, Koyukuk, and Nulato.
Unit 22	Brevig Mission, Elim, Golovin, Koyuk, Nome, Saint Michael, Shaktoolik, Shishmaref, Stebbins, Teller, Unalakleet, Wales, and White Mountain.
Unit 23	Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Point Hope, Selawik, and Shungnak.
Unit 26A	Atqasuk, Barrow, Nuiqsut, Point Lay, and Wainwright.

Unlike local harvest, harvest by nonlocal hunters, who are other residents of Alaska and nonresidents, are based on harvest reports. Residents of Alaska living south of the Yukon River and all nonresidents are required to report their Unit 23 caribou harvests. Nonlocal residents of Alaska living north of the Yukon River are not required to report their Unit 23 caribou harvests but also have been unlikely to harvest from the WACH.

From 1999 to 2013, the average annual estimated harvest from the WACH was 11,984 caribou, ranging from 10,666 to 13,537 caribou/year (Dau 2015a, **Figure 5**). Harvest data do not reflect wounding loss, which may be hundreds of caribou (Dau 2015a). Available data suggests that harvest levels have been relatively stable between 1990 and 2013.

Additionally, Dau (2013, 2015a) estimates that local hunters have taken roughly 95% of the total harvest from the WACH since the late 1990s while all other hunters (nonlocal residents and nonresidents of Alaska) account for the remainder (**Figure 5**). Based on harvest reports to ADF&G, in 2012 and 2013 regulatory

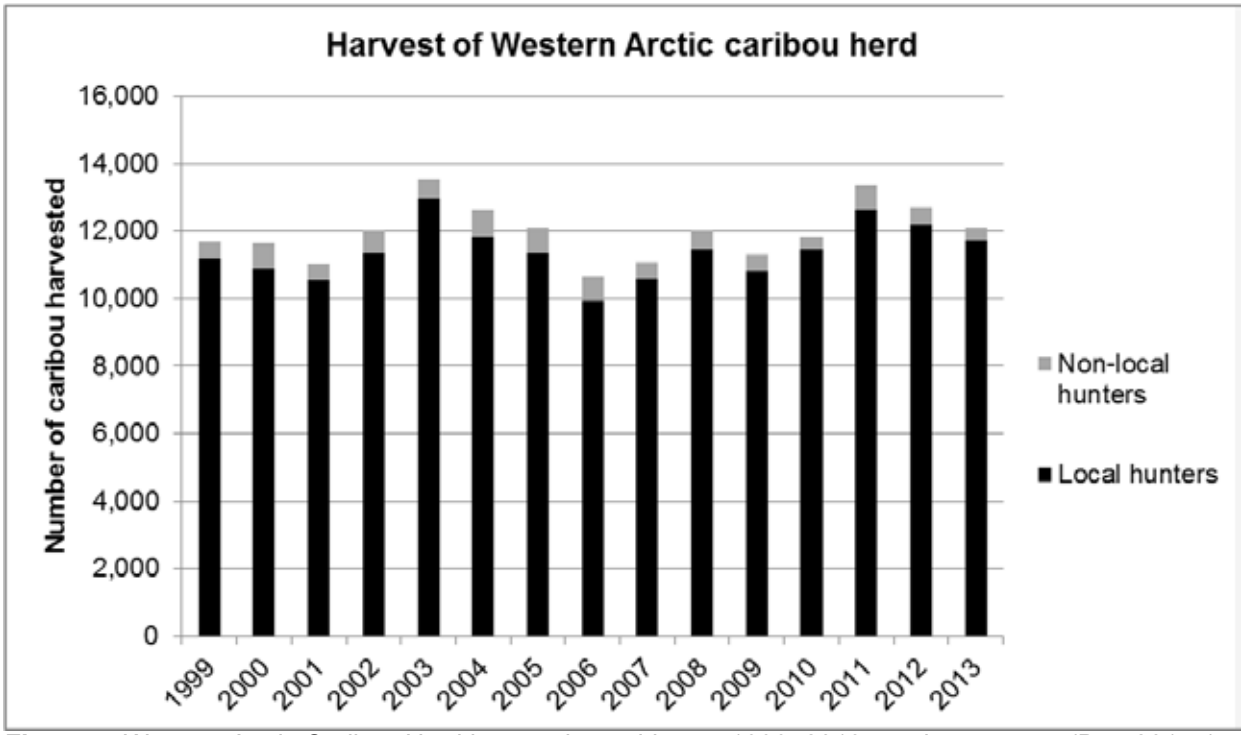


Figure 5. Western Arctic Caribou Herd harvest by residency, 1999–2013 regulatory years (Dau 2015a).

years the reported harvests from the WACH by nonlocal hunters were 520 caribou and 397 caribou, respectively. Dau (2013) described that "85–90% of all [WACH] caribou taken by nonlocal hunters are harvested August 25–October 7. This temporal concentration of nonlocal hunters in Unit 23 combined with intense subsistence hunting during the same period is why conflicts among users have occurred in the unit for many years" (Dau 2013:228).

Dau (2015a) reported that most local hunters living within the range of the WACH access harvest sites using snowmachines during late October–early May and boats or 4-wheelers during the rest of the year, with few using aircraft. In contrast, 76% of nonlocal hunters accessed hunting areas by airplane in each of the 2012 and 2013 regulatory years.

Recent WACH harvest levels are within or below the conservative harvest level (12,900–18,550 caribou) specified in the WACH Management Plan for a herd size of 200,000–265,000 caribou in population decline (see **Table 2**). However, the State manages the WACH on a sustained yield basis. The harvestable surplus of caribou is calculated at 2% of the cows and 15% of the bulls (Parrett 2015b). In recent years, as the herd population has declined, the State-determined total harvestable surplus has also declined (Dau 2015a, Parrett 2015a). In the 2015 regulatory year, the combined TCH and WACH harvestable surplus declined from an estimated 13,250 caribou in 2014 to an estimated 12,400 caribou in 2015. The harvest of caribou from the TCH and WACH combined in 2013 and 2014 was 15,063 caribou and 14,455, respectively (Dau 2015a). While there is substantial uncertainty in the harvestable surplus estimates, the overall trend is decreasing as the population declines (Parrett 2015a). If population projections and harvest estimates are accurate, overharvesting is likely already occurring (Dau 2015a, Parrett 2015b).

The WACH Management Plan recommends harvest strategies at different management and harvest levels. The harvest recommendations under conservative management may include: no harvest of calves, no cow and restricted bull harvest by nonresidents of Alaska, voluntary reduction of cow harvest by residents, and potentially limiting the subsistence bull harvest to maintain a 40:100 bull:cow ratio (WACH Working Group 2011). The recently adopted State regulations for caribou in Unit 23 that went into effect July 1, 2015 addressed the management plan's recommendations for conservative management by prohibiting the take of calves, restricting bull and cow seasons for residents and nonresidents of Alaska, and reducing the nonresident harvest limit from two caribou per year to one bull per year. New Federal regulations that went into effect July 1, 2016 mirror newly adopted State regulations. Should the WACH population decline to the extent that it falls within the preservative management level, one additional recommendation offered in the WACH Management Plan is "2) Harvest restricted to residents only, according to state and federal law. Closure of some federal lands to nonqualified users may be necessary" (WACH Working Group 2011:46-47).

Caribou Harvests in Unit 23 by Non-Federally Qualified Subsistence Users

Dau (2013) reported that the majority of the WACH harvest was taken from Unit 23 (66–88%, 1999–2011 regulatory years). Of the WACH harvest, residents within the range of the WACH account for 95% of the harvest on average, while all nonlocal hunters only account for 5% of the Unit 23 caribou harvest on average (**Figure 5).** In recent years (2012–2014), numbers of nonlocal hunters are slightly lower, partially because transporters have had to travel further to find caribou and thus, could not book as many clients (Dau 2015a). Examination of Appendix 1 shows that caribou harvest by community does not necessarily parallel WACH population trends (i.e. Ambler only harvested 325 caribou when the WACH population peaked in 2003, but harvested 685 caribou in 2012 when the WACH was declining). Of note is Noatak's harvest of 66 caribou in 2010, which declined substantially from a harvest of 442 caribou in 2007.

Since 1998 when data was consistently collected, the number of non-FQSU hunting caribou in Unit 23 has ranged between 248 and 663 hunters (**Table 5** and **Figure 6**). Between the 2004 and 2013 regulatory years, an annual average of 446 non-FQSUs reported hunting for caribou in Unit 23. In 2014, 408 non-FQSUs reported hunting for caribou in Unit 23. The number of hunters was somewhat steady between 1998 and 2004, peaked in 2006, and has since declined (ADF&G 2016c, FWS 2015c).

Commercially licensed guides and commercially licensed transporters assist many non-FQSUs by guiding them in the hunt or transporting them to areas to hunt for big game in Unit 23. The Selawik National Wildlife Refuge and the Noatak National Preserve are areas where Federal in-season managers have limited the participation of commercial guides and transporters (see Regulation History section, above). In Unit 23, an estimated 60% of nonlocal hunters (residing outside the range of WACH) used a transporter, 10% used a guide and about 30% used no commercial service (Unit 23 Working Group 2016). Fix and Ackerman (215:2) in a study from 2010 to 2013 found that "nonlocal" transporter clients entering the Noatak National Preserve consisted primarily of nonresidents of Alaska and residents of central and southern Alaska communities, such as Fairbanks, Anchorage, and those on the Kenai Peninsula (Fix and Ackerman 215:2). This is consistent with ADF&G caribou harvest hunting and harvest reports (ADF&G 2016c and FWS 2016c).

Table 5. The number of non-Federally qualified subsistence users that reported hunting for caribou in Unit 23, 1981-83 and 1998-2014, based on the ADF&G harvest reporting system. No data is available between 1983 and 1998.

Unit 23				
Harvest of caribou by non-Federally qualified subsistence users				
Regulatory year	Nonresidents of Alaska	Non Federally qualified residents of Alaska	Total	
	Number of caribou harvested	Number of caribou harvested	Number of people that hunted	Number of caribou harvested
1981	14	57	72	71
1982	7	157	92	164
1983	26	173	126	199
. . .				
1998	226	321	443	547
1999	194	201	438	395
2000	271	354	503	625
2001	213	186	438	399
2002	225	292	530	517
2003	237	291	482	528
2004	305	304	498	609
2005	380	283	585	663
2006	401	232	662	633
2007	220	240	557	460
2008	215	320	546	535
2009	124	266	443	390
2010	117	131	421	248
2011	275	394	456	669
2012	286	327	469	613
2013	252	234	404	486
2014	240	140	408	380
2004-2013 average	258	273	446	531

Source: ADF&G 2016c and FWS 2016c.

The number of commercial guides and transporters varies within different areas of Unit 23. The number of transported hunters within Selawik National Wildlife Refuge has decreased since 2000 (**Figure 7,** FWS 2016b). Between 1993 and 2014, caribou comprised, on average, 62% of big game harvested annually by transported hunters on Selawik National Wildlife Refuge lands. However, since 2000, the number of caribou harvested by this user group has decreased substantially (**Figure 8,** FWS 2016b). According to the refuge manager (Georgette 2016, pers. comm.), the harvest decline for caribou is "mainly the result of caribou no longer being reliably available on the refuge in September due to delayed migration."

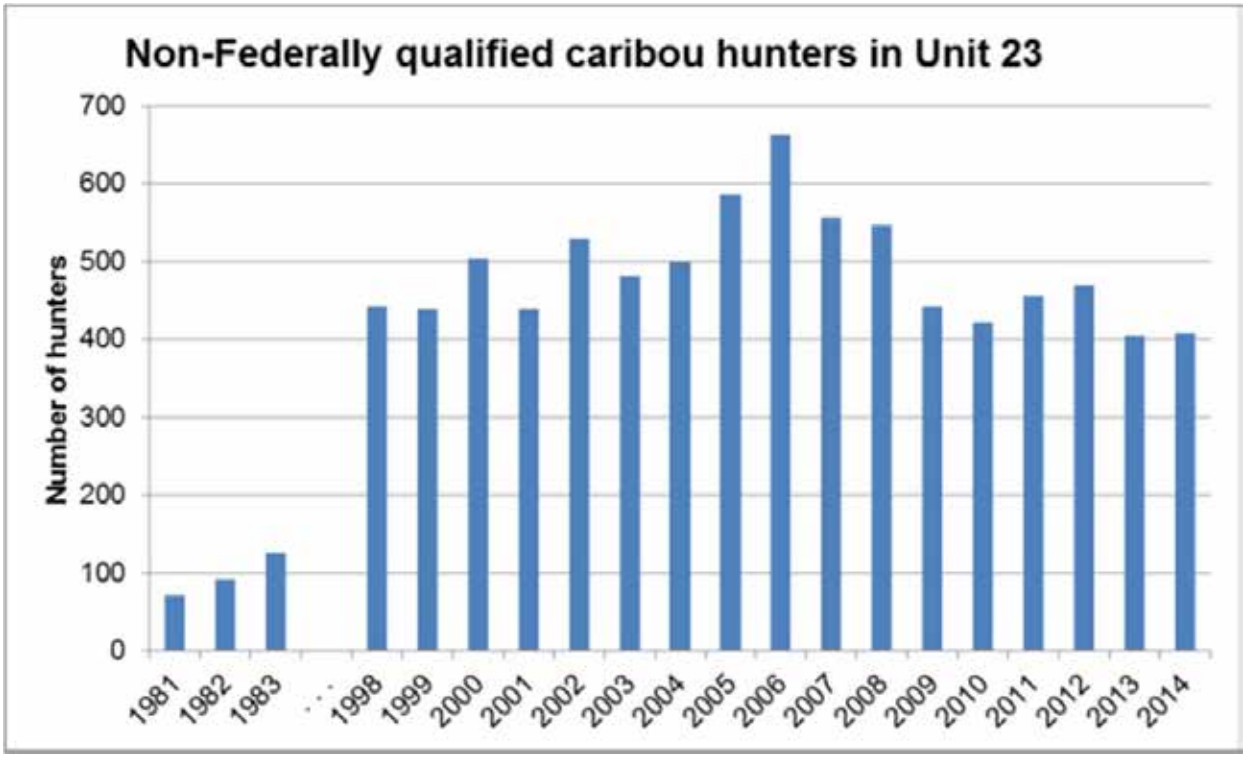


Figure 6. The number of non-Federally qualified subsistence users that reported hunting caribou in Unit 23 based on the ADF&G harvest reporting system. No data is available between 1983 and 1998 (ADF&G 2016c and FWS 2016c).

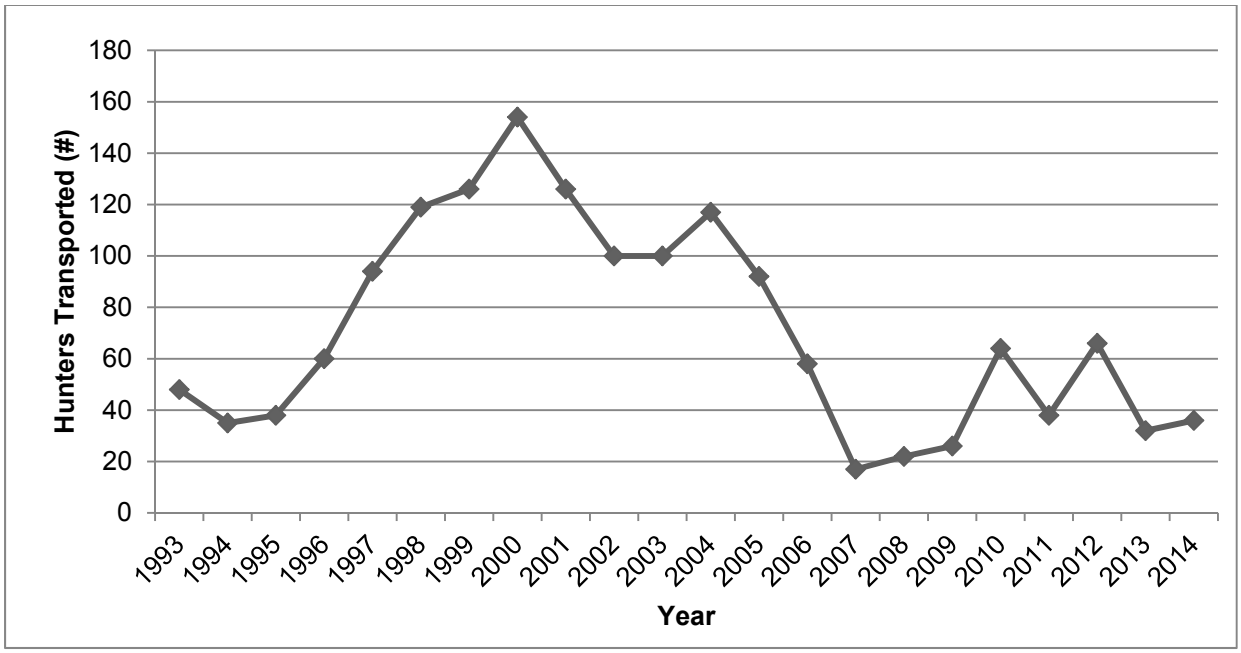


Figure 7. Number of hunters transported by aircraft transporters or using commercial guide services on Selawik National Wildlife Refuge (FWS 2016b).

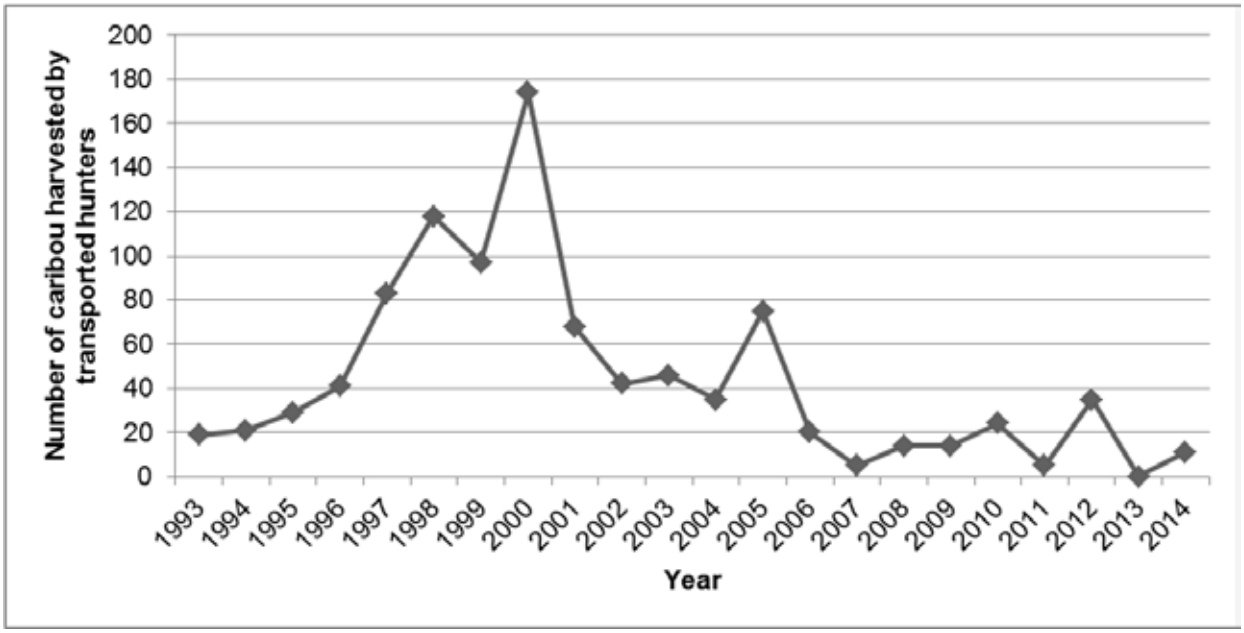


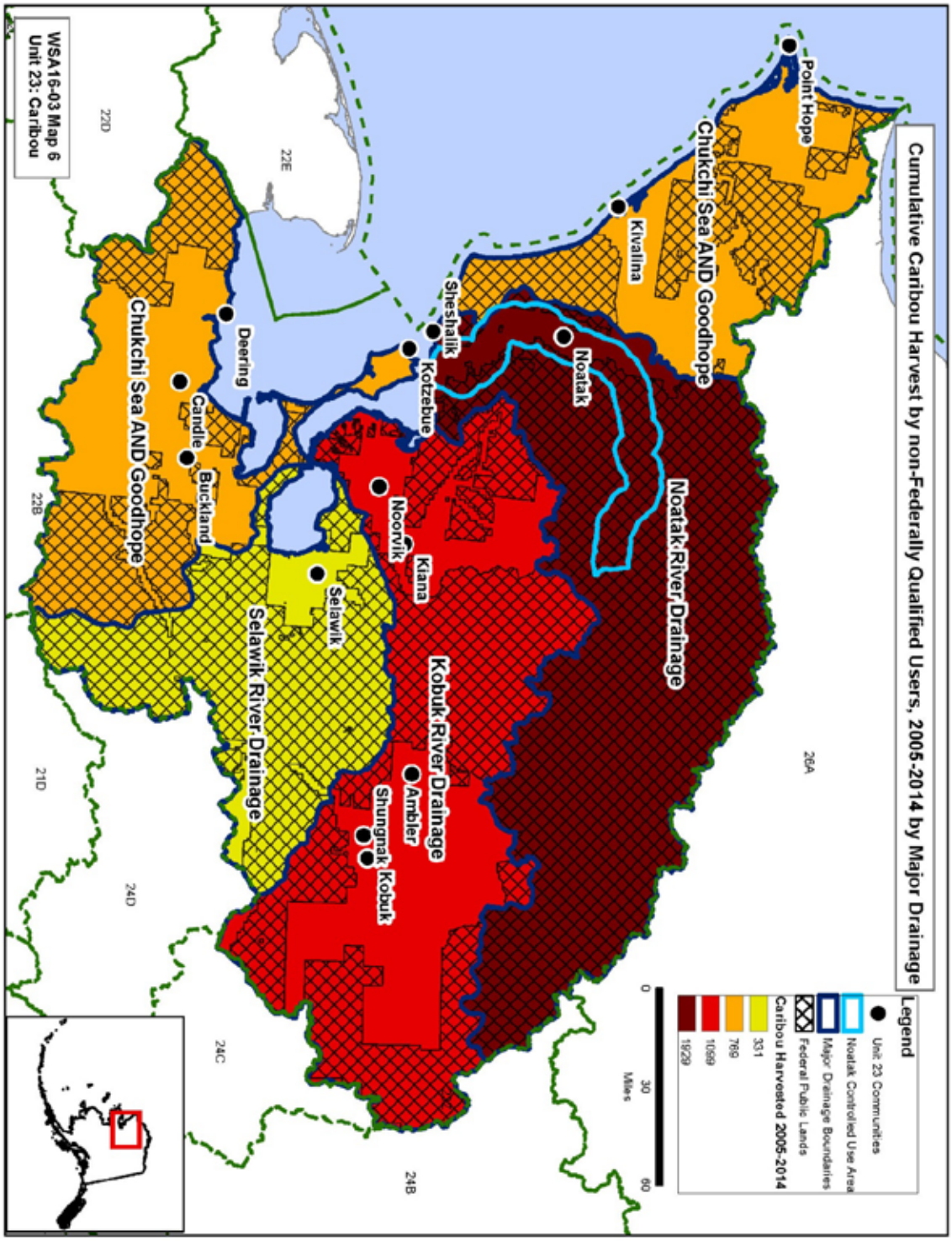
Figure 8. Number of caribou harvested by hunters transported by aircraft transporters or using commercial guide services on the Selawik National Wildlife Refuge (FWS 2016b).

Conversely, the number of transported hunters in the Noatak National Preserve increased from about 300 in 2010 to over 400 in 2014 (Fix and Ackerman 2015). In 2015, approximately 350 hunters (300 "nonlocal" and 50 "local" hunters) were transported into Noatak National Preserve (NPS 2016). In a survey of 372 transported hunters in the Noatak National Preserve between 2010 and 2013, 62% of groups harvested caribou with the average harvest being 1.8 caribou per group member (Fix and Ackerman 2015).

Local hunters have identified aircraft noise as an issue affecting hunting success (Betchkal 2015). During the fall 2014 hunting season, average aircraft noise events within Noatak National Preserve ranged from 3.7 events per day at Kugururok River to 7.8 events per day at Sapun Creek. It is unknown whether the difference in aircraft noise events was due to management areas (i.e., the National Park Service Special Commercial Use Area delayed entry zone or the ADF&G Noatak Controlled Use Area (see **Map 2**), or the recent easterly trend of primary caribou migration routes (Betchkal 2015). However, the recent aircraft noise levels appear comparable to aircraft noise levels documented in the Noatak National Preserve in 1987 by Georgette and Loon (1988) and 1995–1996 by Fix and Ackerman (2015). Nonetheless, comparisons should be interpreted with caution due to different methodologies (i.e., human observations v. continuous acoustic recordings and the establishment of the Noatak National Preserve's Special Commercial Use Area and delayed entry zone in 2012 (Fix and Ackerman 2015). The ADF&G GMU 23 aircraft use education course, which is mandatory for all pilots transporting big game in Unit 23, suggests that pilots maintain a minimum altitude of 2000 feet in the vicinity of camps (Betchkal 2015).

Intensity of Use of Unit 23 by Non-Federally Qualified Subsistence Users

Intensity of caribou harvest and hunting activity across Unit 23 by non-FQSUs can be spatially represented given data available in harvest reports. The following map (**Map 6**) depicts the intensity of caribou harvest



Map 6. Caribou harvest by non-Federally qualified subsistence users by Major Drainage Unit, 2005-2014 cumulative.

in Unit 23 by non-FQSUs 2005–2014 cumulative, by major river drainages. The data were derived from the ADF&G harvest reporting system and may be best interpreted alongside of local knowledge held by land managers and others to increase precision in spatial interpretation of hunting and harvest intensity over time.

The data was sorted to remove FQSUs.[2] This resulted in 6,297 caribou harvest records of which 4,415 (70%) reported an actual harvest of a caribou. Among these records, 2,195 animals were harvested by nonresidents of Alaska and 2,220 animals were harvested by Alaska residents. The records were further parsed to include only those records for which the hunting area was identified at the major drainage scale, representing 4,128 records used to create this map. The remaining 287 harvest records (7%) occurred in unidentified locations of Unit 23.

Map 6 provides a broad spatial view of caribou harvest by non-FQSUs in Unit 23 over a 10-year period. Intensity categories were established based on natural breaks in the harvest data. The major drainage with the greatest intensity of harvest at this level of analysis was the Noatak River drainage (1,929 caribou harvested) followed by the Kobuk River drainage (including the Squirrel River drainage) (1,099 caribou), the Chukchi Sea and Good Hope drainages (769 caribou), and the Selawik River Drainage (331 caribou). By percentage of 2005–2014 cumulative harvest, the Noatak River drainage exhibited the highest harvest in Unit 23 (47%), followed by the Kobuk River drainage (27%), Chukchi Sea and Goodhope (19%) and the Selawik River drainage (8%).

While **Map 6** depicts 10-year cumulative harvest broadly, **Map 7** depicts the harvest by minor drainage. Instead of spreading out the harvest across the larger area, this map identifies harvest intensity at smaller scales. Still, this scale may not provide the Board with the geographic precision necessary for more finely tuned management decisions on small tracks of land[3]; local land managers could help refine the data by doing outreach in local communities and collecting information concerning user conflicts for a more targeted closure. Of the 4,415 harvest records, 3,185 (72%) were identified to the minor drainage level. The 1,230 harvest records (28%) not identified to the minor drainage level were not included in the map. Intensity was categorized in this map by similar ranges of cumulative caribou harvest distinguished by natural breaks in the dataset.

Map 6 and **Map 7** are also overlaid with boundaries of Federal public lands. The Noatak River drainage is characterized predominantly by Federal public lands and this is also the drainage that exhibits the highest intensity of harvest at the major drainage level during the 10-year period (**Map 6**). At smaller spatial scales (minor drainages) however, the Squirrel River drainage and the Baldwin Peninsula represent the greatest harvest intensity (between 260 and 588 caribou, **Map 6**). Both of these areas are comprised of Federal public lands and State lands.

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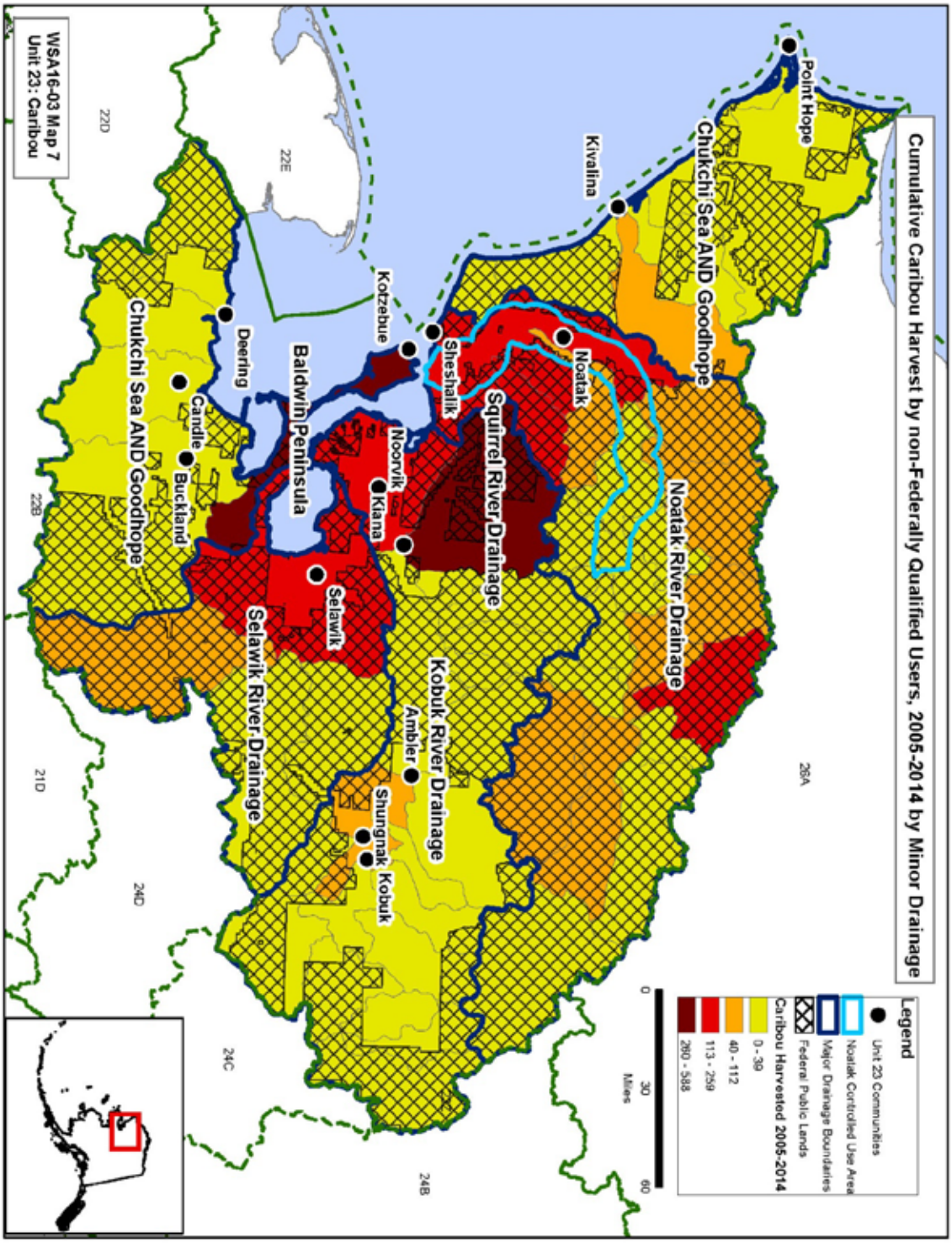
[2] Seventy-five caribou harvest records were removed because residency was listed as "unknown" and were therefore not included in the map as they may have included Federally qualified subsistence users.

[3] Some data representing harvest and hunting activity to the Uniform Coding Unit (UCU) spatial scale is available through harvest reports but was not utilized due to confidentiality concerns and limitations associated with precision.



Map 7. Caribou harvest by non-Federally qualified subsistence users by Minor Drainage Unit, 2005-2014 cumulative.

Several other minor drainages received moderately intensive harvest (between 113 and 259 caribou) during the 10-year period as depicted on **Map 7**. Three of the four minor drainages with moderate harvest intensity occur within the larger Noatak River drainage and include the Anisak River area, the Agashashok River area, and the Noatak River from Chukchi Sea to Kelly River area. A fourth moderate intensity harvest area is represented in the Kobuk River delta within the Kobuk River drainage.

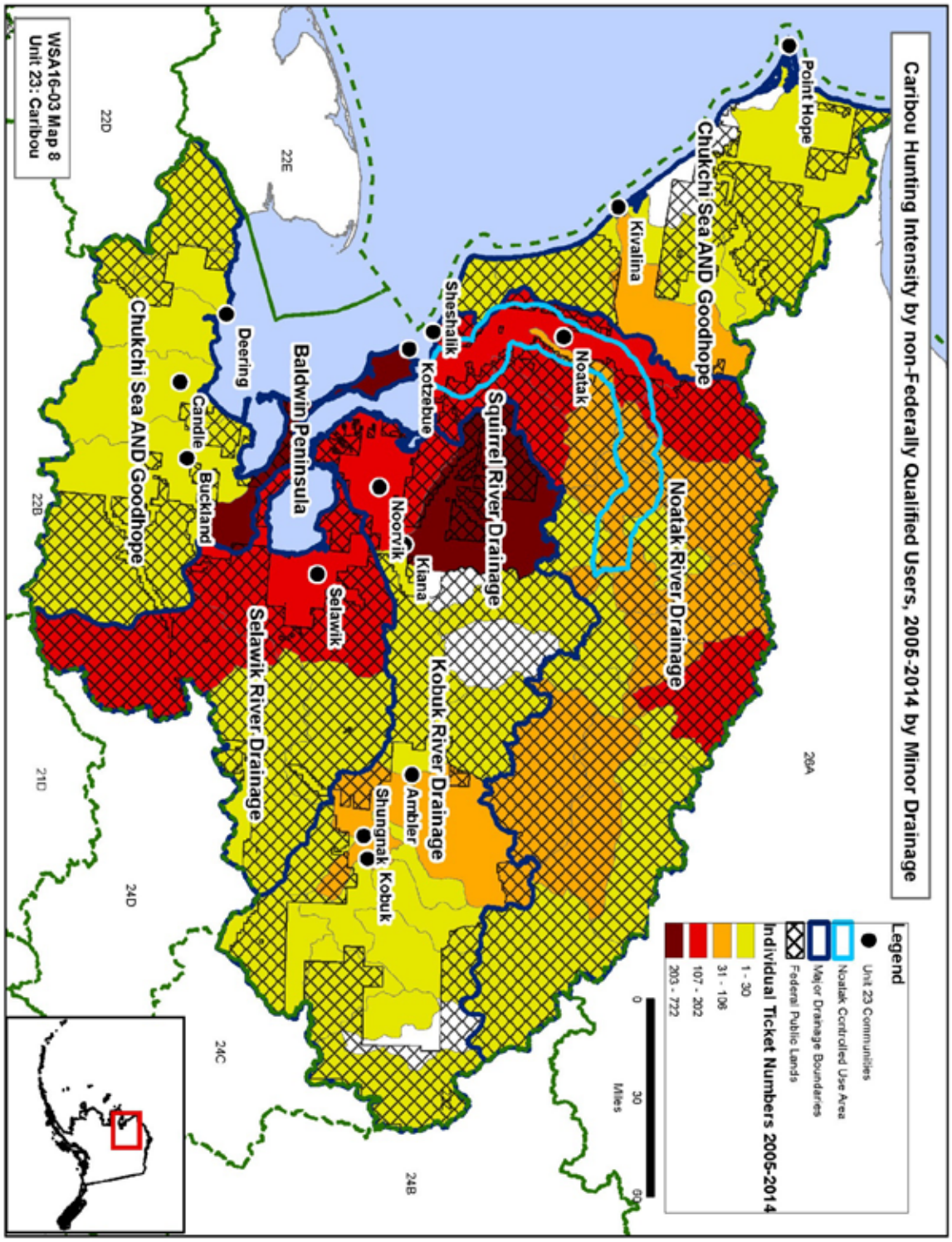
Map 8 represents non-FQSU hunting activity 2005–2014 cumulative by minor river drainage. The purpose of this map is to show intensity of hunting activities by minor drainage and the data include all records for which caribou were sought and not harvested as well as records from successful hunters. A total of 3,554 records are included in the map excluding 1,418 records for which hunting activity was not reported to the minor drainage level.

The hunting activity intensity represented in **Map 8** is similar to the caribou harvest intensity by minor drainage represented on **Map 7** with several exceptions. The minor drainages exhibiting the highest hunting activity were the Squirrel River and Baldwin Peninsula, the same drainages with the highest cumulative harvest. Moderate hunting activity was similar to harvest intensity in that it includes the Anisak River, Agashashok River, Kobuk River delta, and the Noatak River (Chukchi Sea to Kelly River), but also includes the Tagagawik River and Noatak River (Kelly River to Nimiuktuk River) drainages.[4]

For hunters living north of the Yukon River and hunting in Unit 23, caribou harvest tickets and reporting are not required and thus the ability to map harvest and hunt intensity by FQSUs based on the ADF&G harvest reporting system is not possible. In 2016, Satterthwaite-Phillips et al. (2016) published a report documenting subsistence harvest areas in the region. This study documented local harvest areas among 160 hunters residing in the communities of Buckland, Deering, Kivalina, Kotzebue, Noatak, Noorvik, and Selawik (referred to as local harvesters, below). The residents of these communities are FQSUs. The resultant maps were then reviewed by a local advisory group and updated accordingly to their recommendations. **Figure 9** is borrowed from this report and depicts the documented search and harvest areas for caribou by these local harvesters by season.

Figure 9 can be reviewed alongside of **Maps 6, 7,** and **8** to compare the spatial extent and intensity of local harvesters (residents of Buckland, Deering, Kivalina, Kotzebue, Noatak, Noorvik, and Selawik) and non-FQSUs in Unit 23. The extent and intensity of local harvester activity roughly aligns in all seasons with that of the greatest intensity of non-FQSU activity and harvest of caribou from 2005 to 2014 cumulative, especially in the vicinity of Noorvik, Selawik, Kotzebue and Noatak. Importantly, Satterthwaite-Phillips et al. (2016) did not conduct interviews with residents of Kiana, Ambler, Shungnak or Kobuk and thus the associated maps do not provide hunt and harvest area insights for those communities. For this reason, **Figure 9** may not show harvest area mapping in the vicinity of those communities even though harvest may be occurring in those areas. For example, Kiana is located at the mouth of the Squirrel River, a drainage that

[4] According to the Selawik National Wildlife Refuge Manager (Georgette 2016, pers. comm), the majority of hunting activity represented along the Anisak, Tagagawik, and Kelly Rivers was likely by NFQSUs lacking familial ties to the region while those represented along the Baldwin Peninsula and Kobuk Delta were likely composed largely of Non-FQSUs that were former residents of the area or family members of local residents.



Map 8. Caribou hunting intensity by non-Federally qualified subsistence users by Minor Drainage Unit, 2005-2014 cumulative

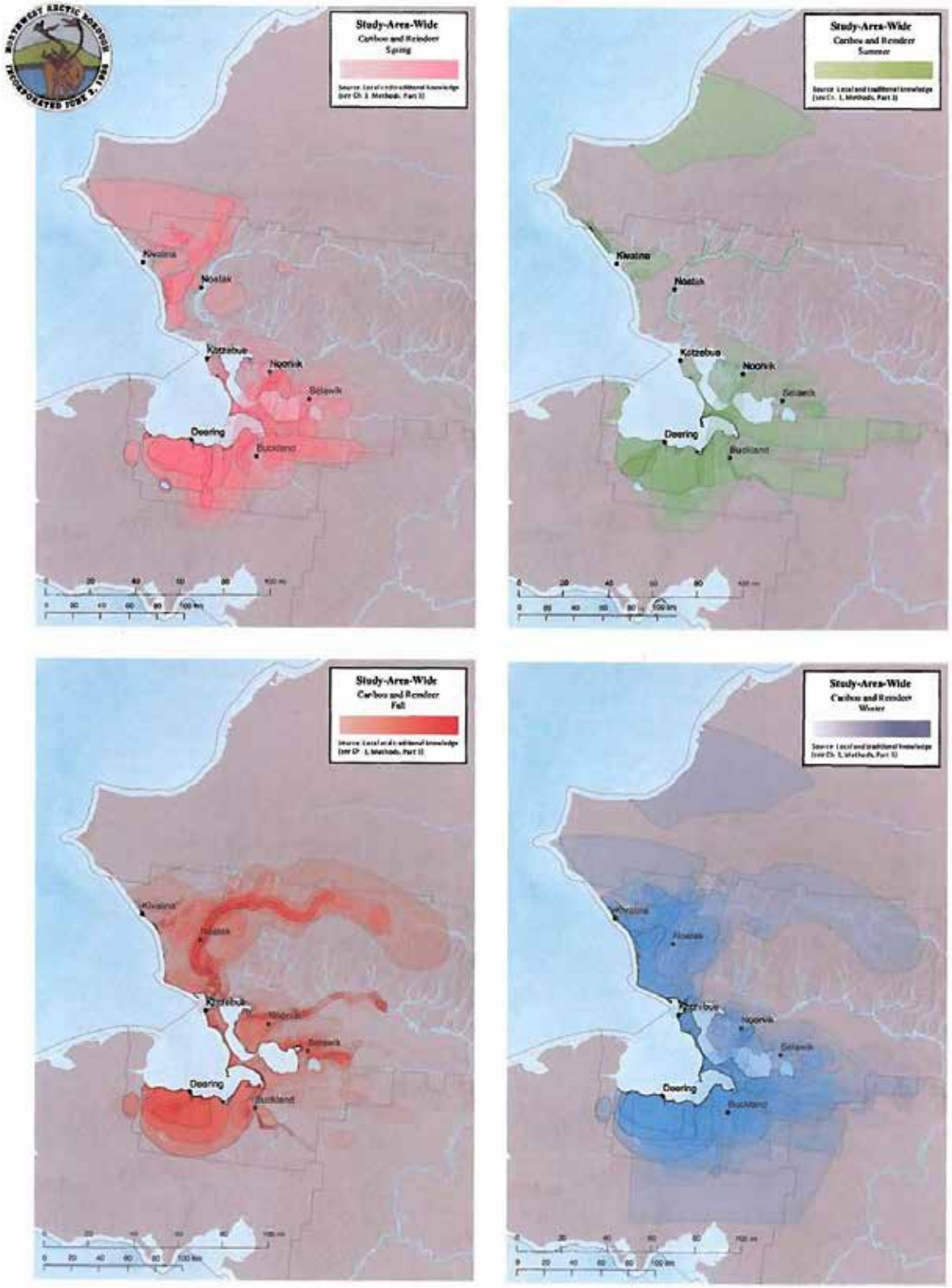


Figure 9. Caribou harvest areas by season as reported by 160 hunters residing in the communities of Buckland, Deering, Kivalina, Kotzebue, Noatak, Noorvik, and Selawik (Satterthwaite-Phillips et al. 2016).

has limited harvest mapping polygons in **Figure 9**, possibly because residents of the nearest community to this drainage, Kiana, were not interviewed.

A one-year spatial snapshot of caribou search and harvest areas for residents of Ambler, Shungnak, and Kobuk is available for 2012 (Braem et al. 2015; included here in **Appendix 2**). It is important to note that this one-year harvest data is not necessarily representative of long-term harvest patterns or the spatial extent of use areas since these tend to fluctuate annually based on local environmental conditions and caribou movements. Still, the data may be helpful in understanding recent areas used by local hunters. While comprehensive subsistence harvest surveys were conducted in Kiana in 2006 (Magdanz et al. 2011), no spatial data was reported. For these reasons, data gaps continue to exist for caribou harvest patterns of Kiana residents; Kiana being the sole community within the Squirrel River watershed.

User conflicts may also arise in areas where "use" does not necessarily overlap. For example, some local hunters ("local" resident subsistence hunters) have reported concerns that sport hunters ("nonlocal" hunters dropped off by transporters) affect caribou migration patterns by deflecting herds with aircraft, hunting camps, and hunting activities (Fix and Ackerman 2015, Halas 2015). Three areas of particular concern were noted at the Northwest Arctic Council meeting in October 2015: the Squirrel River drainage, the Noatak River drainage, and the vicinity of the Baldwin Peninsula (NWARAC 2015). For 2015, the average annual density of "nonlocal" harvesters was highest in the Squirrel River area (2.92 hunters per 100 mi^2), the Selawik National Wildlife Refuge (1.93 hunters per 100 mi^2), and the Noatak River area (0.95 hunters per 100 mi^2; Unit 23 Working Group 2016).

Cultural Knowledge and Traditional Practices

<u>Customary and Traditional Uses</u>

Caribou have been a primary resource for the Inupiat of the Northwest Arctic Region for thousands of years. Caribou bones dating from 8,000 to 10,000 years ago have been excavated from sites on the Kobuk River (ADF&G 1992). Foote (1959, 1961) wrote about caribou hunting in the Noatak region forty years ago, noting that life would not be possible in Noatak without this source of meat. Caribou are a major source of both food and clothing and continues today to be the most important land animal in this region (Burch 1984, 1994, 1995, ADF&G 1992). Uhl and Uhl (1979) indicated that caribou continues to be the main source of red meat for Noatak residents as well as other communities in the region. Betcher (2016) also documents the critical contemporary importance of caribou to people residing throughout the Northwest Arctic.

Traditionally, caribou were harvested any month of the year they were available in the Northwest Arctic Region. The objective of the summer hunt was to obtain the hides of adult caribou with their new summer coats. They provided the best clothing material available to the Inupiat. The fall hunt was to acquire large quantities of meat to freeze for winter (Burch 1994). The timing and routing of migration determined caribou hunting. Hunting seasons change from year to year according to the availability of caribou (ADF&G 1991). The numbers of animals and the duration of their stays varies from one year to the next (Burch 1985) and harvest varies from community to community depending on the availability of caribou. Generally, communities in the southern portion of Unit 23 (Buckland, Deering) take caribou in the winter

and spring, while the other communities in Unit 23 take caribou in the fall, winter, and spring. Kivalina and Point Hope also take caribou in the summer in July (ADF&G 1992) and Selawik residents regularly hunt in the fall (Georgette 2016, pers. comm.).

Currently, caribou hunting by FQSUs in the Northwest Arctic Region is most intensive from September through November. Caribou can be harvested in large numbers, when available, and can be transported back to villages by boat before freeze-up. Hunters search for caribou and attempt to intercept them at known river crossings. Ideally, caribou harvesting occurs when the weather is cool enough to prevent spoilage of meat. If not, meat is frozen for later use. Prior to freeze-up, bulls are preferred because they are fatter than cows (Braem et al. 2015, Georgette and Loon 1993).

Small groups of caribou that have over-wintered may be taken by hunters in areas that are accessible by snowmachine. "Hunters harvest cows during the winter because they are fatter than bulls . . . . Caribou harvested during the winter can be aged completely without removing the skin or viscera . . . . Then in the spring, the caribou is thawed. Community members cut it into strips to make dried meat, or they package and freeze it" (Braem et al. 2015:141). In spring, caribou start their northward migration. The caribou that are harvested are "lean and good for making dried meat (*paniqtuq*) during the warm, sunny days of late spring" (Georgette and Loon 1993:80).

Historically, during fall and spring caribou migrations, people built "drive fences" out of cairns, bundles of shrubs, or upright logs. These fences were sometimes several miles long and two to three miles wide. Ideally, the closed end of the fence crossed a river, and caribou were harvested while crossing the river and retrieved later; or the fence would end in a corral where caribou were snared and killed with spears (Burch 2012). Burch (2012:40) notes, "The landscape of Northwest Arctic, especially in hills and mountains, is littered with the remains of drive fences that were in every stage of construction when they were abandoned."

Beginning in the late 1800s in the Northwest Arctic, the WACH population declined rapidly. At its low point, its range had shrunk to less than half its former size. Famine ensued, primarily due to the absence of caribou. In the early 1900s, reindeer were introduced to fill the need for food and hides. The WACH began to rebound in the 1940s. Currently, among large terrestrial mammals, caribou are among the most abundant; however, the population in any specific area is subject to wide fluctuations from year to year as caribou migration routes change (Burch 2012).

Today, the human population in Unit 23 is comprised primarily of 11 regional Inupiaq groups (Burch 1998). Kotzebue is the regional hub of transportation and commerce and is the home to the majority of non-Natives in the region. The population of Unit 23 was approximately 7,500 in 2010, according to the U.S. Census (ADOLWD 2016). Caribou dominate the subsistence harvest. In household harvest surveys conducted between 1964 and 2012, caribou were often the most harvested species, more than any other wild resource, in lbs. of edible weight. Based on these surveys, in a typical study year, the harvest of caribou was between 100 and 200 lbs. per person in northwest Alaska communities (**Appendix 1**, ADF&G 2016b).

User Conflicts in Unit 23

User conflicts between "local" and "nonlocal" hunters have been well documented in Unit 23, specifically in the Noatak National Preserve, the Squirrel River area, and along the upper Kobuk River (Georgette and Loon 1988, Jacobson 2009, Harrington and Fix 2009 *in* Fix and Ackerman 2015, Halas 2015, NWARAC 2015, Braem et al. 2015). Local hunters have expressed concerns over aircraft and "nonlocal" hunters disrupting caribou migration by "scaring" caribou away from river crossings, landing and camping along migration routes, and shooting lead caribou (Halas 2015, Fix and Ackerman 2015, NWARAC 2015).

In March of 1988 the Traditional Council of Noatak submitted a proposal to the Board of Game to create the Noatak Controlled Use Area in an effort to restrict aircraft along a portion of the Noatak River from August 15 to September 20 (Fall 1990:86). The area was to include five miles on either side of the Noatak River, beginning on the south at the mouth of the Eli River, and extending northerly along the Noatak River to the mouth of the Nimiuktuk River, including the north side of Kivivik Creek (see **Map 2**, ADF&G 1988:47). Included within their proposal was the following justification (Fall 1990:86, ADF&G 1988:47):

> In the Noatak valley, aircraft supported hunters are directly competing with, and displacing subsistence hunters from traditional hunting sites along the Noatak River. The village most affected is Noatak, although families from Kotzebue are also affected. These families are having a great deal of difficulty obtaining their fall meat supply due to heavy aircraft traffic, rude aircraft operators, and displacement from traditional camping and hunting sites.
>
> Aircraft operators have the opportunity to use many other areas than the main Noatak valley, in the vicinity of traditional hunting areas. Good management practices indicate that the two groups of users should be separated.
>
> Experienced hunters from the village of Noatak point out that heavy aircraft traffic in the Noatak valley causes disruption of the fall caribou migration. The caribou are particularly sensitive near river crossings, which is stressful for the animals. Experience and good judgment is required to avoid disruption of the caribou migration. The village hunters' experience with aircraft supported hunters has been poor. The aircraft supported hunter; lack of experience and commercial interests has led to abuse of the resource. Noatak hunters point out that the normal migration routes of caribou through the Noatak valley in the fall have changed over the last several years of heavy aircraft use. Village hunters have noticed increased levels of waste of caribou and moose by aircraft supported hunters.

In response to the proposal, the Division of Subsistence conducted a study in which they interviewed hunters from 21 caribou hunting households in Noatak, 22 private pilots from Kotzebue, 10 Kotzebue-based air taxi services, two hunting guides, and the Federal Aviation Administration in Kotzebue (Fall 1990:86). This study found that fall caribou hunting in the proposed area was a traditional and meaningful activity for Noatak, that the major source of air traffic in 1987 was from commercial air taxi operators, and that respondents tended to agree that air traffic significantly increased in the 1980s (Fall 1990, Georgette and Loon 1988).

When the Board of Game deliberated on the proposal, members indicated that they were not convinced that aircraft were disrupting subsistence caribou hunting but acknowledged an increase in outfitter operations along the Noatak River (Fall 1990:87). Fall (1990:87) suggests that because the Board of Game failed to support two similar proposals from Noatak previously, and because the current proposal had the support of both the Kotzebue Fish and Game Advisory Council and the Arctic Fish and Game Regional Council, there was pressure on the Board of Game to be responsive to the issue. The Board of Game amended the proposal to include approximately one third of the proposed land area representing locations where most subsistence hunting took place and where caribou were most vulnerable to aircraft; they then accepted the proposal unanimously (Fall 1990:87). In 1994 another amended proposal was passed by the Board of Game which roughly doubled the size of the Controlled Use Area.

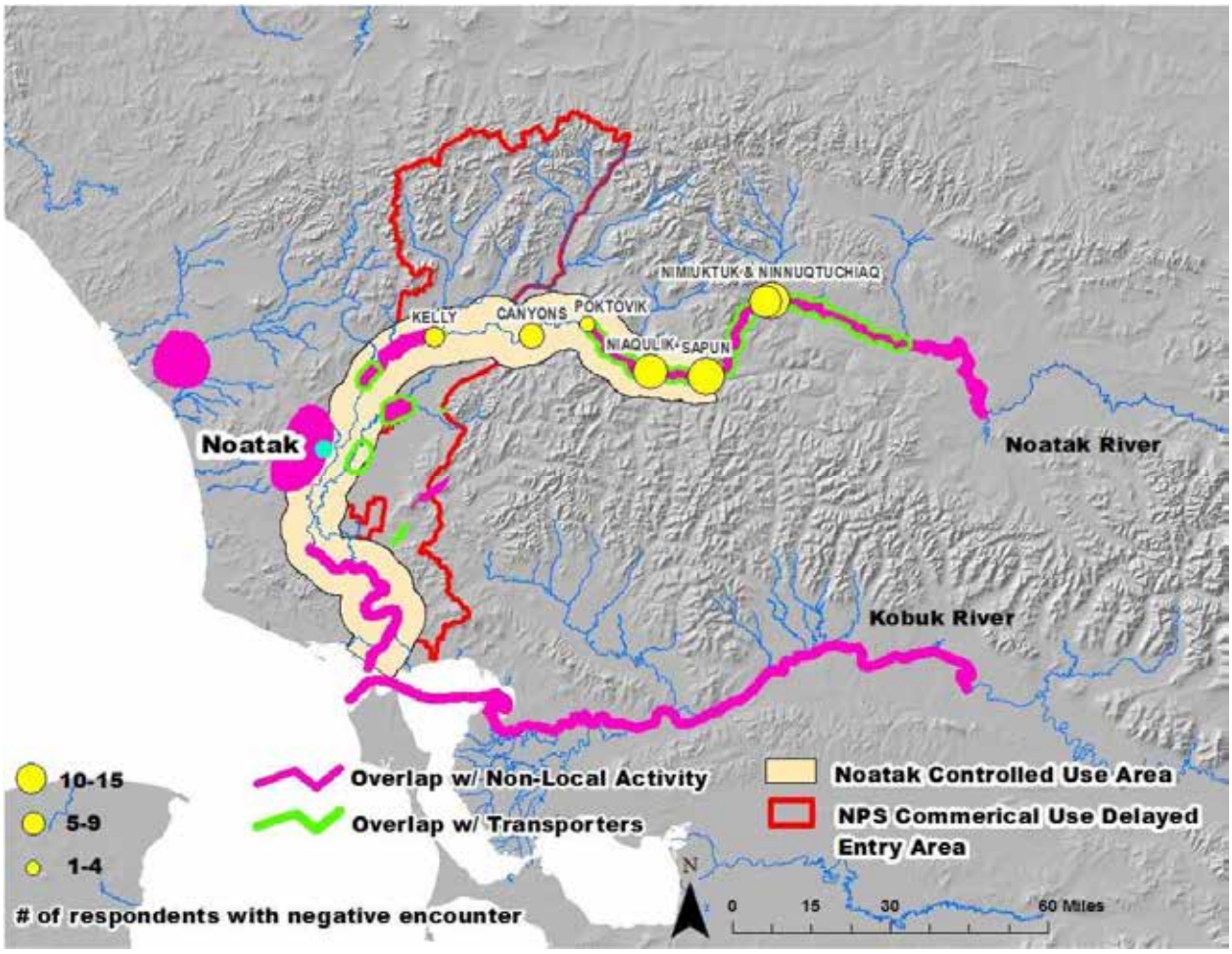
The Board of Game actions in 1988 and 1994 did not fully alleviate user conflicts along the Noatak River as local users continued to report similar observations in subsequent decades. As recently as 2014 Noatak residents have been voicing their concerns on this issue. In a survey of 19 Noatak hunters, 78% and 92% of respondents perceived "nonlocals" and planes to impact caribou migration, respectively. Similarly, 63% and 81% of respondents reported that "nonlocal" hunters and planes reduced hunting success, respectively (Halas 2015). Noatak respondents did differentiate between commercial transporter operators and "nonlocal" hunters, attributing a decrease in harvest success primarily to aircraft transporters (Halas 2015). Negative encounters between "local" and "nonlocal" hunters identified by respondents primarily focused on river crossings of migrating caribou (see **Map 9**, Halas 2015).

A survey of 384 hunters identified as transporter clients in Noatak National Preserve hunting between 2010 and 2013 indicated perceptions of conflict among this group differed from those expressed by "local" hunters (Fix and Ackerman 2015). Less than half of the transporter clients interviewed reported receiving information about issues of concern to "local" hunters. They did indicate that wilderness characteristics were important to them and that the quality of their experience was sensitive to encounters with others. Among encounter types in which the frequency exceeded hunter expectations were propeller planes (30% of respondents), other nonlocal hunters (27%), and hunting camps visible while hunting (25%, Fix and Ackerman 2015). About half of respondents reported observations of low flying aircraft near caribou; among only those that encountered caribou. Sixty percent of respondents who reported encountering caribou also reported observing low flying aircraft near the animals.

Concerns regarding the apparent lack of recent caribou population data, ongoing user conflicts and potential herd deflection by aircraft were discussed at length during the Northwest Arctic Council meeting in October 2015. While some Council members reported caribou harvest success for the year, many also reported ongoing concerns for herd deflection near the Squirrel and Agashashok Rivers in Unit 23, as well as concern for residents of Anaktuvuk Pass in Unit 24 who have been reporting an absence of animals from both the WACH and the TCH.

Halas (2015; **Map 9**), in her case study of Noatak caribou hunters and their interactions with transported hunters, examined the links between caribou behavior and migration, user group interactions, and changes to subsistence caribou hunting. In describing observations by Noatak hunters in 2012 and 2014 she explained that,

Observations of caribou behavior ("spooked" caribou, deflected caribou groups from river crossings) due to aircraft are likely witnessed as a dramatic event not easily forgotten by a waiting Noatak hunter. Whether the aircraft intentionally or unintentionally may be "influencing" caribou movement, observing "scared" caribou can be a powerful experience for hunters (Halas 2015:81).



Map 9. Areas of overlap use between 19 Noatak interview respondents and "nonlocal users." Green lines and polygons delineate overlap areas with observed transporters. Notes: Pink lines and polygons are nonlocal users observed in the area that overlapped with local hunters. Yellow circles represent the number of respondents who had a negative encounter with ""nonlocals" in specified locations. Respondents could identify more than one location (Halas 2015).

"Local" hunters' observations of airplanes affecting individual or group caribou behavior have been documented, and cumulative observations of this over time could naturally lead an observer to conclusions about herd deflection (Halas 2015). Several studies have also documented negative caribou responses and avoidance behavior toward aircraft, motorized equipment, and development (e.g., Valkenburg and Davis 1983, Wolfe et al. 2000, Vistnes and Nelleman 2007, Calef et al. 1976, Maier et al. 1998). Valkenburg and

Davis (1983) specifically studied the reaction of the WACH to aircraft and compared this with their observations of the Delta Caribou Herd (DCH). They found that aircraft overflights cause WACH caribou to flee more often and to continue running more than DCH animals. Calef et al. (1976) observed panic reactions and strong escape responses in a high percentage caribou, particularly when aircraft flew at altitudes of less than 60 meters. These authors also found that caribou response to small fixed-wing and helicopter overflights was strongest during early calving (late May to early June), post-calving (early June to late June), and winter (Calef et al. 1976).

Valkenburg and Davis (1983) speculated that the higher intensity of WACH response to aircraft was due to insufficient exposure to non-detrimental aircraft activity (those not resulting in immediate hunting activities), the perception of aircraft as a threat, and the association of snowmachine noise with pursuit and a lack of differentiation with the noise of aircraft (Valkenburg and Davis 1983). They observed that WACH caribou ran from 82% of aircraft passes (compared to 35% of passes for DCH animals), and that escaping WACH caribou were more likely to continue running after the aircraft had passed as compared to DCH animals. These authors hypothesized that a greater number of benign or nonthreatening overflights may be necessary to habituate WACH animals and that same-day hunting upon landing had exacerbated the situation (Valkenburg and Davis 1983). In comparison, DCH caribou occurred in areas where much of the aircraft and ground vehicle activity was nonthreatening (Valkenburg and Davis 1983).

Avoidance behavior of caribou to human activity and development has also been documented to have other behavioral and physiological impacts. Some studies have shown that energy costs associated with repeated disturbance (including overflights) may decrease caribou reproduction rates (Luick et al. 1996, Bradshaw et al. 1998, Maier et al. 1998) and calf survival rates (Huntington and Veitch 1992). Studies have also reported reduction in the use of areas within 5 km from infrastructure and human activity (including aircraft) by 50–95% for weeks, months, or years (Vistnes and Nelleman 2007, Flydal et al. 2002).

Dau (2015a) reports that since the early 1980s, perceptions surrounding guides and transporters placing large numbers of nonlocal hunters (living outside of the range of the WACH) in fall caribou migration corridors and deflecting the herds from traditional hunting areas has been an issue of concern for local hunters (living within the range of the WACH) (see Braem 2015 et al. 2015, Dau 2015a:34, Unit 23 Working Group 2016). In addition, the timing of hunting has caused conflicts between user groups because 85–95% of all caribou taken by nonlocal hunters are harvested between August 25 and October 7, the same period as intense subsistence hunting (Dau 2015a:31). While hunt timing often aligns among these user groups, methods of access do not. Most local hunters harvest with snowmachines, boats, and 4-wheelers and few use aircraft. In contrast, 76% of nonlocal hunters accessed hunt areas by plane in regulatory years 2012 and 2013 (Dau 2015a:31). This mode of access can provide nonlocal users with a greater range of access and speed in reaching ideal hunting locations, and also place them in front of a migrating herd.

In recognition of these use conflicts in the area of the lower Noatak River, the Alaska Board of Game. expanded the extent and duration of the Noatak Controlled Use Area in 1994 and has since created a mandatory Unit 23 pilot orientation, developed and distributed outreach materials, and established conflict planning processes (see **Map 2**, Dau 2015a). Recently, the Noatak/Kivalina and Kotzebue Sound Fish and Game Advisory Committees submitted two proposals to the Alaska Board of Game to consider at its

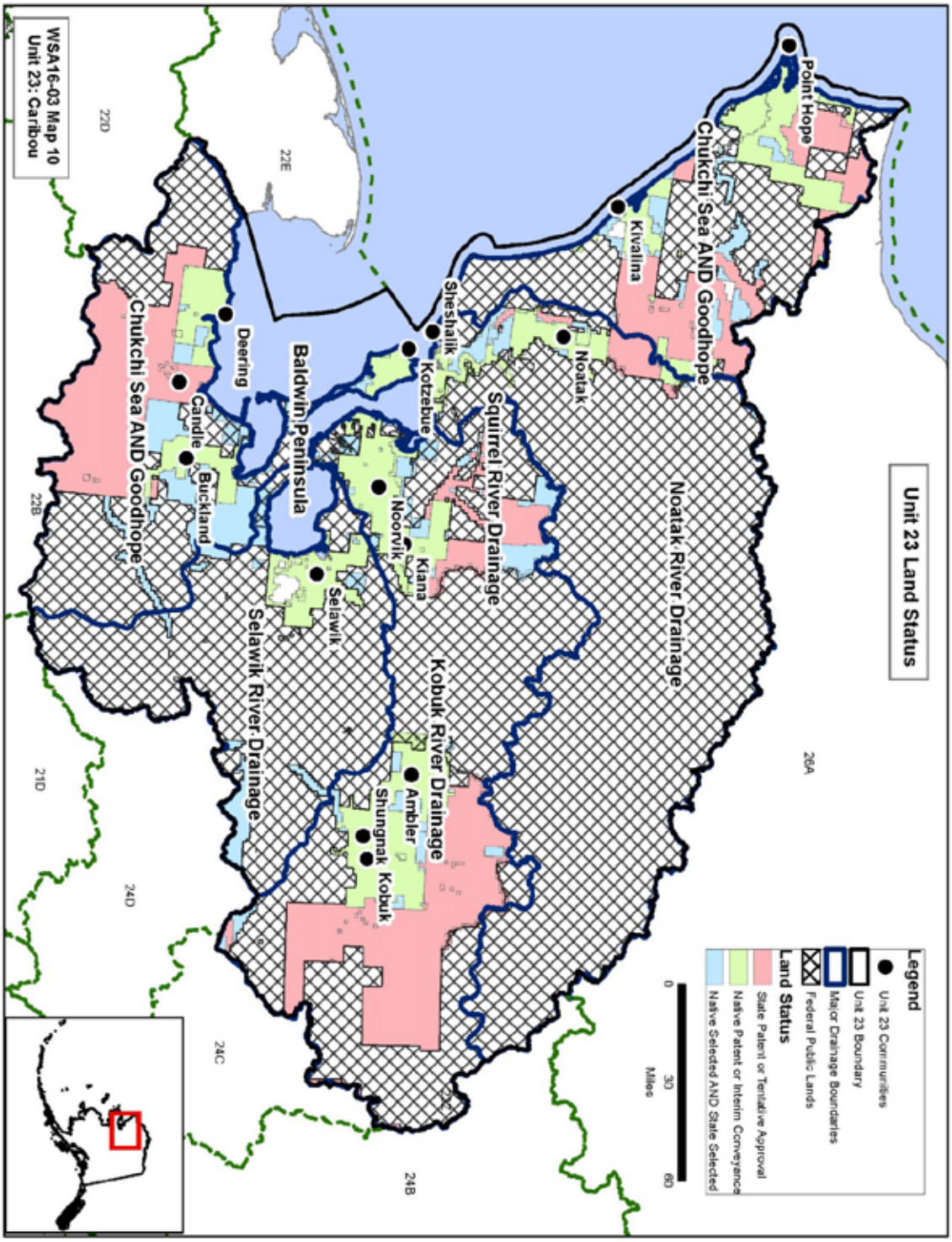
meeting in January 2017 (Unit 23 Working Group 2016). These proposals would extend the boundaries of the Noatak Controlled Use Area to the Cutler River, close the Controlled Use Area from August 15 to September 30 to the use of aircraft in any manner for big game hunting (except between publicly owned airports), and require that big game hunting camps be spaced at least three miles apart in the Controlled Use Area and along the Agashashok (Aggie), Eli, and Squirrel Rivers (Unit 23 Working Group 2016).

In 2012, the National Park Service began prohibiting transporters from dropping caribou hunters in the Kelly, Kugutuk and lower Agashashok river drainages before September 15 of each year (see **Map 2**). This Special Commercial Use Area may have limited effect on the numbers and distribution of "nonlocal" caribou hunters that are transporter clients due to the fact that fewer caribou have been migrating through the affected area since 2011 and transporters generally dropped their clients east of the closed area (Dau 2015a). In addition, the rule applies only to transporters with caribou hunting clients and not to those transporting hunters of other species, fishers, and recreational users. Furthermore, the rule does not apply to personal aircraft that are commonly used for transportation by non-FQSUs to and from the region. Information is not readily available on difference in the degree of impact to caribou by aircraft transporting caribou hunters compared to those flying for other purposes.

Another area of intense user conflict was identified in the eastern portion of Unit 23 along a 25-mile Kobuk River corridor located upstream of Kobuk, Ambler, and Shungnak, from the Mauneluk River to the Selby River (Braem et al. 2015). Much of this area is managed by the State and is among the most accessible areas in the entire drainage for "nonlocal" hunters (see **Map 10**; Braem et al. 2015). In 2001 and 2002, proposals were submitted to the Board of Game to create a controlled use corridor in this area but they were not adopted (Braem et al. 2015). This area may be of particular importance in considering potential shifts in land use due to the closure of Federal public lands to non-FQSUs of caribou in 2016.

Regarding caribou deflection and diversion, the State has suggested that incomplete camp location information has prevented a quantitative assessment of caribou deflection or displacement associated with commercial operators and their hunting clients in the unit (Dau 2015a). The State contends that commercial operations in other areas have not led to herd deflection and displacement (Dau 2015a:14-20): "Despite virtually complete saturation of access points in the Anisak drainage by transporters each year during 2009–2015, caribou from the WAH migrated through this area during each successive year, and in no year did caribou divert away from the Anisak drainage despite persistent hunting and transporter activities."

Regardless of the causes, the fall migration of WACH failed to follow historic spatial and temporal trends in 2012, 2013, and 2014 (Dau 2015a). In these years, relatively few WACH caribou migrated through the western portion of Unit 23 and instead heavily utilized a narrow east-west corridor through Ivishak Pass to the Purcell Mountains and Nulato Hills (Dau 2015a). This created difficulty for hunters from Noatak, Kivalina, and Kotzebue. As a unit, local WACH harvest has been relatively stable since the 1990s, but residents of some communities have had to "greatly increase their expenditure of money and effort to maintain these harvest levels" (Dau 2015a:14-30). This is due in part to having to travel farther, more frequently, and for longer durations to find caribou (Halas 2015). In addition, many have had to switch from taking bulls to cows because of temporal shifts in access. According to Dau (2015a), some communities such as Unalakleet and Noatak have "not met their subsistence needs in many recent years" (Dau



Map 10. Land status within Unit 23 as per data obtained from the Bureau of Land Management on July 27, 2016.

2015a:14-30). This was also expressed by the Northwest Arctic Council members during their meetings in October 2015 and March 2016 (NWARAC 2015, NWARAC and NSRAC 2016).

Northwest Arctic Council members reported ongoing concerns about extensive user conflicts in Unit 23 (NWARAC 2015). Council members have testified that these conflicts were confounding their ability to successfully harvest caribou for subsistence purposes in some areas, and also that these conflicts were causing degradation to their subsistence lifestyle through landscape modifications (e.g., discarded or abandoned structures and trash; landing strips; ATV trails), herd diversion and positioning (e.g., pushing or scaring with low-flying aircraft for hunting, sightseeing, photography and other purposes; creating camp structures ahead of migratory paths), and hunting of lead caribou that are establishing the migratory route of the herd (including the killing of and diversion of these animals). Aircraft activity was of particular concern and includes operations by transporters, guides, "nonlocal" hunters utilizing personal aircraft, and recreational users. Specifically, aircraft in the vicinity of the Squirrel River was cited as particularly problematic (see **Map 8**; NWARAC 2015).

Concerning "nonlocal" hunting and herd diversion near the Squirrel River, one Northwest Arctic Council member described the situation as follows (NWARAC 2015:217):

> We're getting more and more sport hunters. There's 80 percent of sport hunters—pretty much close to 80 percent of all sport hunters goes into Noatak and Squirrel Rivers. That Squirrel River is like a corridor connected to Aggie [Agashashok River] and there's Kiana and the caribou come right through there. Come through the flats, then through the Noatak River. That's when we get in close to the village. We don't have to buy two, three drums of gas, which is worth 10 gallons, 15 gallons gas. That really helps us.
>
> That's what we've been doing for decades, years, centuries. This problem is not natural. Natural probably we can do nothing about, like the weather, climate change, but this problem is manmade. It's on our land. We're hurting. Our subsistence is in jeopardy. Well, I want to depend on these caribou very much. Very much. Too high a density of non-local hunters. That's the problem. That's not natural problem. That's manmade that can be fixed and that's what we're trying to fix. It seems to go right through from ear to ear. What I say here is going to go right out the door again? No. We want something done. We ask that down from the Aggie River and the Eli River to protect our subsistence, to protect our traditional culture.

Another Council member indicated that the Squirrel River area is an area with high user conflict and requested that the Bureau of Land Management (BLM) take additional action to address the issue. According to Bruce Seppi, a wildlife biologist for the BLM, eight guides and outfitters and four transporters received permits to operate on BLM lands in Unit 23 in 2015, primarily in the Squirrel River area, the area between Kotzebue and Kivalina, and south of Kivalina. In 2014, guides and outfitters brought in 22 clients and none harvested caribou (NWARAC 2015:207). Transporters brought in five clients who harvested 13 caribou (NWARAC 2015:207). In 2015, a total of six guides and outfitters were permitted, and a total of five transporters were permitted in the area. Only five post-use reports were received and harvest totals included a single caribou (Seppi 2016, pers. comm.).

While these aircraft may contribute to the perceived modifications in herd movement, private planes of "nonlocal" resident hunters are also thought to exacerbate the problem. According to Chairman Shiedt of the Northwest Arctic Council (NWARAC 2015:210):

> I think the majority of the problem now is happening these smaller planes, private-owned planes, are coming to Buckland and Noatak and Kiana and we're all blaming the transporters and outfitters. I'm not favoring them, but the other year too when I was at Kelly they were there from Interior. There were four planes when I was there. So maybe that's the problem we're having here.

Concerns were expressed by residents of Ambler, Shungnak, and Kobuk as well as members of the Northwest Arctic Council that many "nonlocal" hunters did not act in accordance with local hunting traditions such as shooting caribou for trophies or sport instead of food and wasting meat by letting it spoil in the field (Braem et al. 2015, NWARAC 2015). Halas' survey respondents in Noatak expressed similar concerns (Halas 2015). Additional conflicts between user groups include competition for or overcrowding of campsites, litter, human waste left behind by hunter groups, lack of law enforcement, degradation of the landscape from four-wheelers, and displacement from traditional hunting sites (Braem et al. 2015, Fix and Ackerman 2015, NWARAC 2015).

Concerns by residents of communities within Unit 23 were also recorded in the recently released documentary "Counting on Caribou: Inupiaq Way of Life in Northwest Alaska" (Betcher 2016). Respondents from several communities expressed concern regarding food security as it pertains to caribou herd diversion and changes in migration routes. Several of these indicated that both small and large scale changes to migration routes are linked to "nonlocal" hunting activities, particularly low-flying aircraft. According to Lucy Nordlum of Kotzebue (Betcher 2016):

> We have many influences that play into us not getting certain subsistence foods. Hunters from outside to get their trophy caribou or whatever, that has impacted our area of hunting a lot. I would say in the past ten years we don't have the big migrations that we used to have. They are chased further back into the backcountry. That makes it hard for those of us that don't have airplanes or can't afford the gas. The costs are a lot for fuel now and that influences a lot of people getting out there and doing their hunting. A lot of the people go up to Onion Portage from Kotzebue to get their caribou. That's 500 miles or so away. It is hard with the caribou because that is about the only staple I really have besides fish.

Many of these concerns were substantiated by a mailed survey of "nonlocal" hunters that were transporter clients on the Noatak National Preserve (Fix and Ackerman 2015). Of the 1,127 individuals in this study's sample, 372 returned surveys resulting in an overall response rate of 34% (Fix and Ackerman 2015). Eighteen percent of hunters reported shooting at the first caribou they saw and less than half of the transporter clients reported receiving information regarding "traditional local subsistence use," "subsistence areas to avoid," and "local traditional hunting." Nonresidents of Alaska also reported that hunting for trophies was more important than hunting for meat while residents of Alaska reported hunting for meat was more important than hunting for trophies. Additionally, 58% of nonlocal caribou hunter

transporter clients reported they were not sure if they salvaged all edible meat. Similar to local hunters, nonlocal hunters reported encounters with other nonlocal hunters and airplanes as the two biggest factors detracting from their trip (Fix and Ackerman 2015).

Some agency actions that have been implemented to mitigate user conflict in Unit 23 include the formation of the Game Management Unit (GMU) 23 Working Group in 2008 (Braem et al. 2015), the delayed entry zone in Noatak National Preserve, the State's Noatak Controlled Use Area along the Noatak River, closure of some areas to commercial use by transporters and guides within Selawik National Wildlife Refuge, and the development of a Squirrel River Management Plan, which will address permitted guide and transporter activities such as camp size, placement, and travel (NWARAC 2015). While the public comment period for the Squirrel River Management Plan ended in December of 2010, a formal plan has still not been established as of July 2016.

The Squirrel River Management Plan Scoping Report issued in September of 2011 includes public commentary specifically in reference to "the impacts of transporters, transported hunters, and commercially-guided hunters on subsistence and general hunting." Meetings held in urban areas (Anchorage and Fairbanks) elicited mixed responses to this question while meetings held in rural areas elicited primarily negative views of "nonlocal" hunter influence on caribou. Commentary between subsistence users and commercial operators were largely conflicting, whereby the former group tended to prefer greater regulatory restrictions on the latter group (BLM 2011).

In discussions about ongoing concerns related to user conflict and possible caribou herd deflection near the Squirrel and Agashashok Rivers in Unit 23, members of the Northwest Arctic Council recommended during their fall 2015 meeting that the BLM take prompt action to address user conflict in the Squirrel River area, as well as a number of specific agency actions aimed at addressing conflict linked to commercial transporter operations (NWARAC 2015).

Knowledgeable hunter interviews in Noatak conducted by Halas (2015) also resulted in suggestions for boundaries and limits to "nonlocal" activity including allowing 1,000 caribou to pass before shooting, closing the Agashashok River corridor, and appropriately spacing "nonlocal" camps. Many of these suggestions cannot be enacted through the Board given the limits of its authority but may be considered by the State and the WACH Working Group.

In addition, the Northwest Arctic Council submitted WSA16-01 to the Board requesting that caribou hunting in Unit 23 be closed to all except FQSUs, noting that such a closure could be a first step in protecting the herd at Squirrel River, Noatak River, Cape Krusenstern National Monument,[5] and other Federal public lands in the area. The Council indicated that they would revisit the success of the closure after one year and, if new population numbers continue to indicate declines a request for closures on State lands would be a potential next step.

[5] However, National Parks and National Monuments are already closed to non-Federally qualified subsistence users.

Current Events

The Office of Subsistence Management held public meetings in Barrow, Kotzebue, and Nome in July 2016 and accepted comments to the Board concerning WSA16-03.

Public Meeting in Kotzebue

On July 19, 2016, 49 people testified at the Kotzebue meeting in person or on teleconference, including local residents, nonlocal residents of Alaska, nonresidents of Alaska, guides, transporters, ADF&G, representatives of the Alaska Outdoor Council, and representatives of the organization Resident Hunters of Alaska.

Local residents provided the majority of public comments. Most opposed WSA16-03. These testifiers described the importance of and heavy reliance on caribou by local residents, and described that their cost of living is very high (up to $22.00 per pound for store-bought meat in Noatak) compared to "non-local" Alaskans. The high cost of living is an added hardship as residents note change in caribou migration patterns. Local comments related to these issues included the following testimony:

- Some "local" residents spoke of the cultural significance of caribou for the people of the northwest arctic. They said traditional ecological knowledge teaches the importance of sharing and how conflict over a resource is disrespectful, often leading to decline. Caribou, they said, is the lifeblood of local villages, more nutritious than store-bought meat, and children's health depends on it. Someone noted that caribou in northwest Alaska is like whale on the North Slope. Villages strive to keep their traditions alive. The closure protects a way of life and is crucial to local hunters.
- Many local residents testified that they must travel farther and incur more cost before reaching the herd. Participants noted that Noatak hunters now must travel up to 100 miles to harvest caribou that were once available locally. Residents of Shungnak and Point Hope testified that they also must travel farther to reach caribou that once were harvested locally.
- The no-landing zones in the lower Noatak drainage moves transporters to the upper Noatak drainage which is mostly Federal public lands. The closure is necessary to help local residents harvest caribou on traditional hunting grounds upriver. If current conflicts continue, hunting may be shut down for a long time.
- Many "local" residents testified that the timing and migration patterns of the caribou herd had changed. Buckland hunters noted that the herd arrives late and worry caribou will not be available to them or will arrive in rut. A testifier from Deering noted caribou are arriving later. Some local hunters from the most congested areas must purchase more food and gas to access hunting areas in the Upper Kobuk drainage.
- Several individuals testified that the issue is not about population levels but local conflict with non-FQSUs and transporters. They said that non-FQSUs often access hunting areas by aircraft, place hunting camps in front of herd migration, and harvest lead caribou thereby diverting the herd from its natural migration path. These hunters concentrate their efforts where caribou are present in larger numbers, often in the vicinity of villages that are purposefully situated along migration routes.

Residents said the noise made by low flying aircraft stress caribou and affect their behavior and overall health.

- Non-FQSUs practicing wanton waste are also a problem and are observed in winter as well as fall seasons. Some testified that while transporters do distribute caribou meat, some is aging or "rutty" and most goes to Kotzebue and not smaller villages like Kiana and Noorvik. Local residents opposing WSA16-03 also say the WACH population estimate is insufficient to accurately determine how quickly or how much the herd is shrinking. One Kotzebue resident pointed out that recent research of 31 collared caribou from Onion Portage by ADF&G is inadequate to judge overall calf survival rates from a herd of 200,000. Another resident said that recent observations of ADF&G staff of healthy caribou means only that caribou have more browse available to them and does not describe a long term population trend.
- Many local residents shared concerns about State management of WACH, and noted that the State considers economic effects of the closure to transporters, guides, and non-FQSUs and not the impacts of these activities on local hunters. They said the State fails to recognize the higher dependence of local hunters on wild resources and caribou specifically. Local residents share the burden of conservation and comply with lower harvest limits and shorter seasons.
- Participants stated that people with ties to the region living in urban Alaska can hunt for caribou on NANA Corporation, State, and village corporation lands. Concentrating non-FQSUs hunting caribou in Unit 23 on State lands allows better enforcement of State regulations.
- The WACH Management Plan is important and the herd may be at or approaching the 200,000 animal threshold for Preservative Management Level described in the plan. The State should err on the side of caution and implement Preservative Management Level recommendations.
- Some residents stressed that the closure is for one year only and should remain in place.
- An Alaska resident who is a non-FQSUs who cannot hunt caribou in Unit 23 under Federal subsistence regulations opposes the special action request because human settlement in the region is the result of caribou, and any short-term recovery of WACH does not resolve the recurrent problem of the caribou herd being diverted by transporters. This Alaskan resident said that the Board has responsibility to protect subsistence users and recognize rural Alaskans have priority for harvesting fish and wildlife on Federal public lands.

A number of participants who testified at the public meeting either in person or by phone were in support of WSA16-03. Reasons given in support of the special action include:

- The existing closure is an over reach and the Federal government should not be involved.
- Nonlocal Alaskan resident hunters said they support the special action request because they are responsible hunters, respect local residents and their traditions, and provide substantial amounts of meat to villages. Cultural values and experiences of non-FQSUs are equally important to local values and experiences. The burden of conservation of the WACH should be shared by all State residents.

- Nonresidents of Alaska testified in support of WSA16-03 and said the user conflict is the result management decisions, nonlocal hunters are responsible for harvesting 600 caribou, a small percentage of the overall harvest, and nonlocal hunters routinely share caribou meat with local communities.
- Guides and transporters said they are being negatively impacted economically. Federal public lands should be open to all Americans. They said that if the Board does not approve the special action request, it is acting prematurely, targeting a group that accounts for only 5% of WACH harvest, contributing to misunderstandings between users, and impacting human relations in the region. Not supporting the special action concentrates non-FQSUs in Unit 26A that is critical habitat for caribou. Many guides as well as outside hunters stressed respect for the local people and pointed out that nonlocal hunters donate up to two thirds of their caribou meat to village residents.
- A representative of the Alaska Outdoor Council stated that they support the special action request because it supports subsistence uses by all Alaskans. Additionally, when biological staff indicate that there is not a conservation concern, the closure does not meet the criteria of Title VIII of ANILCA.
- Resident Hunters of Alaska said the State nonresident season should close before non-FQSUs who are residents of Alaska are prohibited from harvesting caribou in Unit 23. If the Board does not support the special action request, it is overlooking the recommendation of biologists. The Board should review its protocols for closures.

ADF&G expressed support for its WSA16-03 because the WACH Working Group brings all parties to the table to negotiate caribou management plans for the region. Representatives stated that the WACH Management Plan was endorsed by the Board, and if the Board does not approve the special action request, it is acting independently of the WACH Working Group and jumping ahead of the process outlined in the WACH Management Plan. An ADF&G representative noted that a photo census from early July 2016 is complete, and a revised WACH population estimate is expected in October 2016. Additionally, newly reported research demonstrates that in 2015, calf survival increased by 10%, adult body weight condition is "high," and the cow pregnancy rate is 85%, the second highest on record, indicating the population seems to be stabilizing. The Board and the Alaska Board of Game have different mandates but they should not deviate from the WACH Management Plan which was agreed on by both.

Public Meeting in Nome

On July 20, 2016, 16 local residents, other residents of Alaska, nonresidents of Alaska; transporters, the group Resident Hunters of Alaska; ADF&G; and Kawarak, Inc., Stebbins Tribe, and Saint Michael Tribe testified in Nome. Local residents were mixed on whether they supported or opposed WSA16-03. The majority of the testimony was in support of WSA16-03. Supportive testimony included:

- The Board's original decision to support WSA16-01 was premature, contrary to the WACH Management Plan which is a bridge between Federal and State management, and will allocate caribou to one user group at the expense of another which is inappropriate. This fall, non-FQSUs will concentrate their hunting efforts at caribou river crossings, for example, and existing user conflicts will not be mitigated.

- Two transporters testified in support of WSA16-03 because the Board based its decision to close on outdated information; the 400–500 caribou harvested annually in Unit 23 by non-FQSUs will have little effect on the caribou population; and transporters provide many pounds of caribou meat to local residents.
- Nonresidents of Alaska supported WSA16-03 because the Board based its decision to close on anecdotal information rather than scientific data. They said the Board is supposed to follow biological guidelines and the closure to non-FQSUs was not necessary for conservation of the caribou population in Unit 23.
- The group Resident Hunters of Alaska supports WSA16-03 because the WACH population is above the threshold for the Preservative Management Level as described in the WACH Management Plan. In addition they said that all Alaska residents should have a subsistence priority including people with close ties to the region that live elsewhere in Alaska, and nonresidents of Alaska should be excluded first.
- ADF&G submitted and supports WSA16-03 because the recent closure will not affect the caribou population in Unit 23; individual caribou appear healthy; user conflict will likely escalate because hunters' distribution will be restricted to State lands only; the WACH Working Group co-management planning process that the Board endorsed in 2001 is undermined; the Western Arctic Herd population is declining due to its natural cycle, it is likely the herd is reaching a low point, and harvest is not driving the decline; and the effects of new State and Federal regulations will be evaluated before further restrictions are likely to be proposed by ADF&G.

Local residents opposing WSA16-03 gave testimony in opposition to guided hunting. One suggested that instead of a full closure, the caribou harvest limit in Unit 23 should be reduced from five caribou per day to two caribou per day for non-FQSUs who are residents of Alaska. Local hunters observed the Seward Peninsula's Kougarok Road turned the WACH from its natural migration in the late 1990s, and hunting pressure is similarly interfering with the natural migration of the herd in Unit 23. Stebbins and Saint Michael tribes also oppose the special action request.

Public Meeting in Barrow

On July 25, 2016, 9 people testified in Barrow including local residents, nonresidents of Alaska, and ADF&G. Local residents in attendance were generally opposed to WSA16-03 with testimony as follows:

- ADF&G is acting too quickly on biological information recently collected. The WACH and TCH have declined 50%, negatively impacting local subsistence users.
- Concerns for the impact of sport hunting on local subsistence hunters have increased over the last 10 years.
- The combined amounts reasonably necessary for subsistence (ANS) for these two herds is misleading because if the ANS for each herd is separated out, there isn't enough caribou in either herd to support harvest by non-FQSUs.

- Hunts for nonresidents of Alaska are not supportable. Many communities in Unit 23 are highly dependent on caribou for subsistence, and if people don't harvest caribou many people go hungry. Also, the opportunity for meaningful cultural and traditional experiences through quality subsistence activities is very important in passing knowledge from one generation to the next, and supporting and teaching traditional sharing. The State should consider local ordinances and zoning restrictions, described in the North Slope Borough Comprehensive Management Plan, and designate "areas of influence" that local users rely on for obtaining subsistence resources for themselves, family, and community, and manage these areas for subsistence uses primarily.
- Local testifiers that oppose the special action also said that when the herd does not migrate through areas villagers can reach, there is great hardship, and any action that helps local subsistence communities until the herd rebounds is important.
- Caribou are perhaps the most important subsistence food upon which the local communities depend, both nutritionally and culturally. Many communities are experiencing nutritional hardship.
- Those who testified said that local subsistence users take regulations seriously and are concerned about conservation of the herds. They take a grassroots approach to changing regulations to help conserve caribou by reducing subsistence harvest and balancing the need to provide for communities. Local residents want to see if there are benefits for FQSUs from the closure before reconsidering it.
- Residents from Anaktuvuk Pass discussed the importance of teaching young people how to live a traditional life. They said local hunting practices let the lead animals pass by, allowing the remainder of the herd to follow and be available for harvest. People in the Northwest arctic are relatives, and when caribou come through, they work as a community to harvest and share. At Anatukvuk Pass, people have not had access to caribou for five or six years. There are no spring or fall migrations, and many families go hungry. They said other communities send food but it is still not enough. One resident said, "We have had to rely on food from other villages for our elders. I don't approve of opening the area to non-Federally qualified hunters. This is a short notice request and action. Listen to the local people who have been suffering for so many years. Consider the hardship our people are faced with, and consider the local people that are affected by WP16-03."
- Other opposing testifiers worry that residents of Noatak will not get enough caribou if migration patterns keep changing combined with the decline in population. The 700–900 animals taken by nonresident hunters, mostly adult bulls, which have harems of up to 75 cows, can have a population-level effect. New recent biological numbers do not create a trend, which requires multiple years of data. Participants expressed that the State is overly influenced by economic needs of the big game lobby, and it is irresponsible to make management decisions driven by economics. They said food security is the primary concern.
- Some residents said Anaktuvuk Pass, Shungnak, Selawik, and Ambler have difficulty finding caribou and travel much further to get caribou than in the past. This is a great hardship with the cost of gas at $10.00 per gallon and freight at $2.00 per pound. They said there is no economic hardship for sport hunters to fly in, but local residents depend on caribou all year round. The migration through Anaktuvuk Pass used to be four days long and the community hunted and shared caribou, and traded food with coastal families. They asked the Board to consider the hardship of the people.

- Local residents said the North Slope Borough is able to help out their communities more than some of the communities in Unit 23. There are few jobs in many communities in Unit 23 and the primary resources are subsistence resources. In many communities 80–90% of their food is subsistence resources. Conflicts between subsistence users and sport hunters occur in those areas important to subsistence uses. They said that they worked hard to conserve the herd and that other caribou herds can support non-Federally qualified hunters.

A few local residents that testified in support of the special action request. They said that if the Board does not approve the request, it will be out of line with the WACH Management Plan. The WACH Working Group represents diverse groups working hard to guide management and has been instrumental in the adoption of recent State regulations. They said State lands are important to subsistence hunters, and the closure may increase crowding and conflict on these lands. Additionally, only 5% of the harvest is by nonlocal hunters and opposing the special action request will not affect the herd population. They spoke of recent evidence suggesting that the WACH population is declining at a slower rate or stabilizing. Calves are in good condition with more surviving. They heard that this summer ADF&G got a good and accurate count. This information supports leaving caribou hunting in Unit 23 open to all users in order to reduce conflicts between sport hunters, nonlocal subsistence hunters, and local subsistence hunters in the Squirrel and the Noatak drainages.

Nonresidents of Alaska testified in support of WSA16-03 because the impact to the caribou population by non-FQSUs is negligible. They said that nonresidents of Alaska suffer negative economic impacts and that if there is a real problem with the herd, restrictions should first target resident hunting, which comprises most of the harvest.

ADF&G supported WSA16-03 and testified that State biologists' estimate the population of WACH is currently around 205,000, which places the herd in the Conservative Management Level, as described in the WACH Management Plan. A new population estimate will likely be available in October. ADF&G does not consider the WACH a conservation or biological concern. ADF&G contended that if this request is not approved by the Board, the Board's decision will be inconsistent with the WACH Management Plan. ADF&G said that this will be detrimental to subsistence users and in conflict with the Board's closure policy. They also said that recent biological information from surveys in 2015 and 2016, though not available at the April 2016 Board meeting, indicate calf survival and recruitment are improving as well as adult female survival compared to previous years. They cautioned that if the Board does not approve the request, instead of reducing the diversion of the herd and conflict between users, as the Board's actions intended, it will actually create more conflict as all non-Federally qualified hunters will be concentrated on State lands (approximately 20% of Unit 23). ADF&G stressed that rejecting Special Action Request WP16-03 fails to consider the economic consequences for the region, outfitters, guides, transporters and others.

<u>Consultation with Tribes</u>

Consultation between tribes and the Board was held on Thursday August 4, 2016 for WSA16-03 at the USFWS Regional Office in Anchorage in person and by teleconference. Designees of Board members

representing the Bureau of Indian Affairs and National Park Service attended. The Inupiat Community of the Arctic Slope, Maniilaq Corporation, the Native Village of Noatak, the Native Village of Kotzebue, and the Native Village of Kiana attended. Tribal comments were largely in opposition to WSA16-03. Several reasons given for the opposition include:

- The WACH Cooperative Management Plan suggests the Preservative Management Mode when the herd reaches 200,000 animals. Given a lack of definitive population data, preference should be given for a more conservative approach.
- The closure provides an opportunity for the WACH to migrate without interruption, potentially allowing them to migrate closer to unit 23 communities and in turn increasing the opportunity for subsistence harvest by FQSUs.
- Caribou is more than a traditional resource; it is also a spiritual resource. The Board listened to the people and their needs when implementing the closure on Federal public lands.
- Caribou has been very difficult to harvest in last several years. Hunters must travel farther and spend more, with fuel costing approximately $9.99 a gallon. Alternative commercial goods are too expensive to substitute; reindeer costs around $19 per pound.
- For several years hunters have had to pool resources to afford hunting trips. In some cases we are purchasing fuel and sending hunters out but they are returning unsuccessful. They are reporting lots of tents and aircraft where caribou should be migrating through.

A tribal representative indicated concern that hunters that are no longer FQSUs would not be permitted to hunt caribou in Unit 23 on Federal public lands.

Comments from ANCSA Corporations

An opportunity for ANCSA corporations to give comments to the Board was also held on Thursday August 4, 2016 for WSA16-03 at the USFWS Regional Office in Anchorage in person and by teleconference. Designees of the Bureau of Indian Affairs and National Park Service Board members attended. Representatives of Kukulget Inc. (in Savoonga) and Sivuqaq Inc. (in Gamble) attended. These representatives indicated that while their communities may have customary and traditional use determinations for caribou in Unit 23, their shareholders do not regularly travel to Unit 23 to harvest the resource because of the expense of doing so. They declined to comment further on WSA16-03.

Federal Subsistence Regional Advisory Council Actions

Western Interior Alaska Subsistence Regional Advisory Council

The Council opposed WSA16-03. The WACH has lost several cohorts of calf recruitment, and the Council emphasized concerns about the effect this might be having on the herd's bull:cow ratio. The Council was especially concerned about removing large bulls from the herd and the effect on reproduction. The Council said caribou breed in a short period of time, younger bulls cannot always keep up with the breeding stress, and young bulls have higher winter mortality than older bulls. The Council cited the Mulchatna caribou

herd as an example, where reducing bull:cow ratios undermined the reproductive capacity of the herd. New bull:cow ratio information for the WACH was not available. The Council was concerned about the declining WACH and preserving the herd for future years, that that caribou have been observed migrating around the Kobuk and Ambler areas and staying more in the mountains possibly because of predation and over-harvesting (WIASRAC: 256–370).

Seward Peninsula Subsistence Regional Advisory Council

The Council opposed WSA16-03. Council members expressed concern over the lack of data regarding the impact of the nonlocal hunt prohibition, as well as the success rate for nonlocal hunters displaced onto State lands. The Council heard from communities that, due to fewer airplanes, there were more caribou sightings by locals. Overall, the Council did not feel comfortable with reopening the hunt until additional information on the impacts of WSA16-01 was provided.

Northwest Arctic Subsistence Regional Advisory Council

The Council opposed WSA16-03. Council members said that WSA16-03 would undermine the special action submitted by the Northwest Arctic Council (WSA16-01). The Council had received reports from communities and letters from tribes in the region that the current closure has helped communities get the caribou they need. Council members heard from Noatak, Kivalina, and Kotzebue residents; they were comforted this fall and felt at peace that they were finally able to fill their freezers with caribou for the year.

The Council had been working to find a workable solution to satisfy the needs of people and wanted to see how the current closure was working. Local people rely heavily on caribou and are concerned about the declines. Council members said that "we are a caribou people" in both culture and diet and want the herd to prosper and stay in balance for the future. The Council and communities in Unit 23 took action to conserve the herd and agreed to reduce their own caribou harvest. It was a tough situation, and the Council worked hard to make a wise decision for the people. The Council felt the situation warranted taking further action to reduce harvest by nonresidents of the area. The intensity of fly-in hunting in these areas had diverted the caribou migration. These areas are also traditional hunting grounds for local communities that rely on caribou for food. The cost of gas is very high for travel to hunt caribou, store bought food is limited and too expensive to replace caribou, and communities pool resources to be able to harvest enough caribou to feed their families. Nonresident hunters have the opportunity to fly somewhere else to hunt.

The Council said that there needs to be more information on the health of the caribou population, and the recent updated count presented by ADF&G is not sufficient to lift the closure or ease any conservation measures for the WACH.

North Slope Subsistence Regional Advisory Council

The Council opposed WSA16-03. The Council responded to new data presented by the proponent and said the Board should err on the side of caution and retain the closure. Another year of data would be needed to identify a trend that the annual decline of the WACH population is becoming less each year. Additionally, the new point estimate for the WACH population was only about 900 caribou over the threshold for "preservative" management identified in the WACH Management Plan (see **Table 2**). The Council said

there is no guarantee or monitoring program to assess if harvest would be within the harvestable surplus if the season was opened. Residents of Alaska hunting the WACH for food should have priority over people hunting for racks. Food security concerns exist in the area. The State has not responded to the needs of local communities; it has been reluctant to use its own process, such as implementing Tier I or II hunts, as the herd declines. The State uses Amounts Necessary for Subsistence (ANS) to manage harvest, and ANS for the TCH and WACH were combined, appearing to support continuation of sport hunting. The Council said hunting in much of the WACH's range should be in Tier I or Tier II. The Federal program is intended to manage harvest for sustained yield and not for ANS. Additionally, the Council said villagers hunt in traditional areas. Others should hunt outside village areas, and all Federal public lands should be closed to nonlocals until there is a willingness to recognize village areas of influence and to provide for a reasonable traditional hunting experience for all communities in Unit 23. The Council has heard reports from Unit 23 residents that more caribou were observed and harvested this fall than in the recent past, and caribou migrated nearby Anaktuvuk Pass for the first time in six or seven years.

The Council said transporting caribou hunters by air has been a growing issue in North Slope as well as Northwest Arctic communities. Enforcement of regulations is minimal to none and some sport hunters are likely hunting in areas where they should not. Sport hunters look for the biggest bulls most of the time; when a dominate bull is killed, calf recruitment from up to 50 cows can be lost. Transporters are pushing sport hunters in front of migrating herds and not follow traditional hunting practices. When large bulls leading the herd are killed, cows and younger bulls become lost. Villagers have knowledge of where their best harvesting opportunities will be. Once guides and transporters figure out where these areas are, they are inundated with nonlocal hunters. Migration routes might have been altered because of nonlocal hunters inundating and interrupting caribou migration (NSSRAC 2016:84–109).

State of Alaska Board of Game Proposals

Currently pending are two proposals submitted to the Alaska Board of Game by the Noatak/Kivalina and Kotzebue Sound Fish and Game Advisory Committees. The proposals to be considered in January of 2017 seek an extension to the boundaries of the Noatak Controlled Use Area to the Cutler River, and a spacing requirement of at least three miles for big game hunting camps located in the Noatak Controlled Use Area, along the Agashashok, Eli, and Squirrel Rivers (Unit 23 Working Group 2016).

Effects of the Proposal

If the Board approves WSA16-03, Federal public lands in Unit 23 will reopen to caribou hunting by non-FQSUs. In its request to the Board in June 2016, the State said that new information indicated improvements in caribou calf production, recruitment, survival, and weight; adult females exhibited very good body conditions and high pregnancy rates in 2015 and 2016; and the newly derived WACH population estimate for fall 2015 was 206,000 caribou, falling within the WACH Management Plan's "conservative" harvest management strategy.

In addressing this new information, first, calf production has likely had little influence on the WACH population decline (Dau 2013, 2015a), and improvement demonstrated in recent research (**Figure 3**, Dau

2016a) is not as relevant as calf survival and recruitment. Second, decreased calf survival through summer and fall and recruitment into the herd are likely contributing to the population decline (Dau 2013, 2015a). Recent research demonstrates that 2015 and 2016 cohorts make up a large proportion of the herd (**Table 3** and **Figure 3**, Dau 2016b). Because of their young age, they remain somewhat vulnerable to difficult winter conditions. Evaluating the over-winter survival rates of the large cohort of 2016 will help to put the demographic potential of this cohort into context (Parrett 2015c, 2016b). Third, increased cow mortality is likely affecting the trajectory of the herd (Dau 2011, 2013), and new data demonstrate decreasing annual cow mortality rates in three of the past four years (**Figure 4**, Dau 2016a). Fourth, the results of a July 1, 2016 photocensus survey resulted in a minimum count of 194,863 caribou with a point estimate of 200, 928 (Standard Error=4,295, Parrett 2016b). Results of this census indicate an average annual decline of 5% per year between 2013 and 2015, representing a lower rate than the 15% annual decline between 2011 and 2013 (**Figure 1**). While there is substantial uncertainty in the harvestable surplus estimates, the overall trend is decreasing as the population declines (Parrett 2015a). If population projections and harvest estimates are accurate, overharvesting is likely already occurring (Dau 2015a, Parrett 2015b).

Before going further, it is important to know that Board actions are guided by the objectives of Title VIII of ANILCA that mandate that if a conservation concern or increasing competition among authorized users and uses requires a reduction in harvest, subsistence uses will be prioritized over other consumptive uses on Federal public lands. Federal regulations give the Board the authority to restrict harvest only to subsistence uses on Federal public lands. This is the first step in the Federal subsistence prioritization process. In the event that nonsubsistence uses have been eliminated on Federal public lands or waters but it remains necessary to restrict the taking of fish or wildlife on public lands by rural residents with a C&T determination in order to protect the continued viability of the fish stock or wildlife population or to continue subsistence uses, the Board must take the next step and establish a priority among subsistence users.

In WSA16-01, the Board was asked to take the first step in the ANILCA Title VIII-mandated prioritization process, described above, in order to protect the continued viability of the WACH and to protect the continuation of subsistence uses. Evidence the Board cited included public testimony expressed to the Board by residents of the area, the position of two affected Councils (Northwest Artic and North Slope), and the status of the herd. The Board concluded that a closure to all but FQSUs was consistent with providing a subsistence priority for use of the resource and assurance that a rural preference was being provided, and recognized the cultural and social aspects of subsistence activities, which may be hampered by direct interaction between local and nonlocal users.

If, in the future, the Board is asked to further reduce subsistence harvest seasons or limits, it may oppose further limitations on subsistence uses until Federal public lands are closed to the taking of caribou by non-FQSUs.

If the Board approves WSA16-03, will user conflict be reduced in the Noatak National Preserve, the Squirrel River area, or along the upper Kobuk River, areas demonstrated to be the focus of user conflict since the 1980s (Georgette and Loon 1988, Jacobson 2009, Harrington and Fix 2009 *in* Fix and Ackerman 2015, Halas 2015, NWARAC 2015, Braem et al. 2015)? It can be assumed that the closure has reduced the

number of non-FQSUs hunting caribou in Unit 23; however, the degree to which this has occurred, or how many more hunters will be present if the closure is rescinded, is not known at this time.

Will user conflict mitigation efforts instituted by the NPS, FWS, and ADF&G effectively reduce user conflict? It is likely that NPS and ADF&G efforts in the lower Noatak drainage may be exacerbating user conflict in the middle and upper Noatak River by pushing non-FQSUs into the path of the main caribou migration in recent years (**Map 2**, Dau 2015a). In light of this, the NPS and FWS may decide to pursue further limitations in order to protect the continuation of subsistence uses.

Some non-FQSUs, guides, and transporters may have already decided to pursue caribou later in the season when hunters can enter the Noatak Controlled Use Area and Noatak National Preserve Special Commercial Use Area (**Map 2)** using aircraft; however, State lands are limited in these areas (**Map 10**). It is likely that the closure moved some hunters to State lands in the Buckland area and upper Kobuk River area, and rescinding the closure may reduce hunting pressure and airplane use in these areas.

If the Board rejects WSA16-03, Federal public lands in Unit 23 will remain closed until June 30, 2017 to the harvest of caribou by non-FQSUs. In the future, the Board may find it necessary to adopt the closure into Federal regulations, further reduce subsistence seasons or harvest limits, and conduct an ANILCA Section 804 subsistence user prioritization to reduce the pool of eligible subsistence users in order to reduce the subsistence harvest. The Board may be compelled to take these actions if the WACH's declining population trajectory and declining harvestable surplus continue (Dau 2015a).

Caribou hunting by non-FQSUs and the presence of aircraft in Unit 23 has likely been reduced since the closure began on July 1, 2016, and will continue at some lower level than in previous years (**Figure 6**), but the degree of change is unknown at this time. It is likely that local hunters will observe fewer aircraft, ORVs, hunting camps, and hunters except near State lands when caribou are present. Local hunters' observations of airplanes and hunters affecting individual or group caribou behavior have been documented (Halas 2015), and several studies have also documented negative caribou responses and avoidance behavior toward aircraft, motorized equipment, and development (Valkenburg and Davis 1983, Wolfe et al. 2000, Vistnes and Nelleman 2007, Calef et al. 1976, Maier et al. 1998), but there have been no studies that document whole herd avoidance. The degree to which caribou have been deflected or the WACH migration path altered due to aircraft and hunter disturbances and how much this may be alleviated by the closure is not clear. However, in recent years the migration path has clearly moved eastward to areas with less documented hunting pressure by non-FQSUs and accompanying aircraft use (**Map 8**, Dau 2015a).

Visitors to the area will continue to use aircraft to access Federal public lands for sightseeing, photography, and other purposes and to hunt moose. It is unknown to what extent other aircraft activities affect caribou; however, an increased ratio of aircraft activity that does not result in mortality may help to habituate the herd to engine noise as was suggested by Valkenburg and Davis (1985).

OSM CONCLUSION

Neutral on Temporary Special Action Request WSA16-03.

Caribou is vital resource for the people of the Northwest Arctic Region and has long been a part of the cultural identity of this area (Burch 1984, 1998, 2012; Foote 1959; Georgette and Loon 1988, 1993; Loon 2007; Magdanz 2011; NWARAC 2015, 2016; NWARAC and NSRAC 2016). While caribou populations naturally fluctuate over decades (Gunn 2001, WACH Working Group 2011), the WACH population has been declining since 2003 (**Figure 1**, Parrett 2016b). Additionally, the continuation of subsistence uses has been jeopardized by effects of longterm nonlocal caribou hunting activity. The State of Alaska submitted to the Board WSA16-03 to open Federal public lands in Unit 23 to non-FQSUs. This action would rescind the closure that resulted from approval of WSA16-01.

This analysis has demonstrated many valid arguments for both supporting and rejecting WSA16-03. However, data gaps also exist that hinder a complete understanding of the complex biological and anthropological components surrounding this issue. Ultimately, the Board's decision will be guided by the objectives of Title VIII of ANILCA to provide a subsistence priority on Federal public lands while protecting the continued viability of fish and wildlife populations and the continuation of subsistence use of these resources. ANILCA Title VIII Section 815.3 as well as the Board's 2007 closure policy authorize restricting nonsubsistence taking of fish and wildlife on Federal public lands if necessary for the conservation of healthy fish and wildlife populations, to continue subsistence uses, or pursuant to other applicable law.

Table 6 and **Table 7** summarize the textual and numerical data offered in support of approval or rejection of WSA16-03 that address the conservation of healthy populations of fish and wildlife. **Table 8** and **Table 9** summarize the textual and numerical data offered in support of approval or rejection of WSA16-03 that address the continuation of subsistence uses. All of the textual and numerical data summarized in the four tables are addressed at length within the body of the analysis and represent summations of data and public testimony.

When considering the data and public testimony presented in this analysis, the Board may also wish to address the need for data that can assess the qualitative or quantitative effects of the current closure, determine the effects caused by other recent regulatory changes, and determine longer-term impacts of the closure for both FQSUs and caribou.

There are three main actions the Board may wish to consider in response to WSA 16-03:

- **Reject** WSA16-03 resulting in the continued closure of Federal public lands in Unit 23 to the harvest of caribou by non-Federally qualified users for the 2016 regulatory year.

- **Approve** WSA16-03 resulting in the opening of Federal public lands in Unit 23 to the harvest of caribou by non-Federally qualified users for the remainder of the 2016 regulatory year.

- **Approve** WSA16-03 **with modification** to maintain the Unit 23 closure to the harvest of caribou by non-Federally qualified users on some Federal public lands while reopening areas to all user groups. The Board may wish to consider options such as those developed in the following section or alternative options not presented in this analysis.

Data and arguments addressing the conservation of healthy populations of fish and wildlife in relation to WSA16-03 have been compiled for Board consideration. These data are summarized in **Table 6** and **Table 7**.

Table 6. Points to consider, affecting the conservation of healthy populations of caribou on Federal public lands in Unit 23, that support opening Federal public lands to the harvest of caribou by all users.

APPROVE WSA16-03 POINTS TO CONSIDER—CONSERVATION OF HEALTHY POPULATIONS
The amount of harvest by non-Federally qualified users (non-FQSU) does not have a meaningful biological impact on the herd. (see *Regulatory History, Harvest History, Biological Background*)
The WACH Cooperative Management Plan should be followed because it includes many stakeholder groups and already agreed upon management modes. Management recommendations have been followed for the appropriate herd population estimate. Bull:cow ratios naturally fluctuate and actual values should be interpreted with caution. (see *Discussion, Biological Background, Current Events*)
When conservation concerns warrant, nonresidents of Alaska should be restricted from harvest before non-FQSU residents of Alaska. This provides for non-FQSUs that are residents of Alaska to participate in the harvest. (see *Current Events*)
Recent observations of improved cow body condition, high calf weights, improved calf recruitment and production, and reduced cow mortality indicate improved herd performance and population models indicate a decreased rate of population decline. (see *Discussion, Biological Background*)
Recent observations of improved calf survival are encouraging. The spring 2016 calf (SY):adult ratio was the highest recorded since 2007 and the second highest since 1997. Data from Onion Portage is for calf weight and cow body condition. No mortality data is collected. (see *Discussion, Biological Background*)
Recent observations of productivity in 2016 are encouraging. The estimated initial production was 85 calves: 100 cows—among the highest parturition levels recorded for this herd. (See *Discussion, Biological Background*)
Observations of calf weights and cow body condition in 2015 are encouraging. The average body condition of adult females was characterized as fat. Average weight of all calves in 2015 was 100 lbs.—the highest average recorded at Onion Portage. (see *Discussion, Biological Background*)

Table 6. Points to consider, affecting the conservation of healthy populations of caribou on Federal public lands in Unit 23, that support opening Federal public lands to the harvest of caribou by all users.

APPROVE WSA16-03 POINTS TO CONSIDER—CONSERVATION OF HEALTHY POPULATIONS
A deterministic model that uses vital herd characteristics suggests a population estimate of approximately 206,000 animals; this places the herd within the Conservative Management level. (see *Biological Background, Current Events*)
An aerial photocensus in 2016 suggests a population estimate of 200,928 (SE 4,295); this places the herd within the Conservative Management level. (see *Biological Background, Current Events*)
There is little empirical evidence to suggest that changes to herd migration routes have been caused by hunting activities associated with non-FQSUs. (see *Biological Background, Current Events*)
The vast majority of harvest in Unit 23 is by Federally qualified users (FQSUs) and thus restrictions on these users results in greater biological impact. (see *Regulatory History, Harvest History - Harvest from WACH & Harvest from Unit 23*)
Harvest restrictions implemented by the Board of Game in 2015 have not been given sufficient time to yield intended results. Restrictions on harvest, sex of harvested animals, and timing of harvest were implemented in response to the declining herd and should be given a change to work before additional restrictions are put in place. *(see Harvest History - Harvest from WACH & Harvest from Unit 23, Current Events*)
Closures on Federal public lands will only serve to concentrate non-FQSUs on State lands. This may still affect herd migration patterns. (see *Discussion, Regulatory History, Current Events*)

Table 7. Points to consider, affecting the conservation of healthy populations of caribou on Federal public lands in Unit 23, that reject opening Federal public lands to the harvest of caribou by all users.

REJECT WSA16-03 **POINTS TO CONSIDER—CONSERVATION OF HEALTHY POPULATIONS**
Additional restrictions on non-FQSU are warranted given the continuing decline in the WACH. (see *Regulatory History, Biological Background, Harvest History, Cultural Knowledge and Traditional Practices)*
Available biological data is insufficient to clearly define the appropriate WACH Cooperative Management Plan action. The 2016 population point estimate of 200,928 (SE 4,295) suggests a straddling of the 200,000 threshold between Conservative and Preservative Management levels. Additionally, cow:bull ratios are lower than the recommended 40:100 ratio identified in WACH Management Plan. (see *Biological Background, Cultural Knowledge and Traditional Practices, Current Events*)
Unlike the Alaska Board of Game, the Federal Subsistence Board does not have the legal authority to restrict only nonresidents of Alaska. Closure to non-FQSUs is authorized to ensure the Federal subsistence priority on Federal public land. (see *Current Events*)
Newly acquired herd performance characteristics are insufficient to characterize the current rate of decline. While a slowed rate of decline in 2016 has been reported, the decline continues. The new, lower rate of decline is not indicative of a long-term trend and thus should not be relied upon exclusively. (see *Biological Background, Current Events*)
Too few calves are observed to provide meaningful insight. Calf observations at Onion Portage fail to recognize calf mortality along migration route, prior to reaching this location. (see *Current Events*)
Single year productivity does not represent long-term trends for the herd population. (see *Current Events*)
Improved body condition may indicate improved quality of forage and access to it, but does not necessarily suggest long-term population trends. (see *Current Events*)
The deterministic model is not considered as accurate as a photocensus in estimating population and it does not consider error in each of the vital herd statistics of which it is comprised. Coupled with the 2016 herd population estimate of 200,928 (SE 4,295), the herd may be below the 200,000 animal threshold between Conservative and Preservative management levels. (see *Biological Background, Current Events*)

Table 7. Points to consider, affecting the conservation of healthy populations of caribou on Federal public lands in Unit 23, that reject opening Federal public lands to the harvest of caribou by all users.

REJECT WSA16-03 **POINTS TO CONSIDER—CONSERVATION OF HEALTHY POPULATIONS**
The standard error associated with the 2016 aerial photocensus spans the 200,000 animal threshold for the Conservative / Preservative Management levels. As such, it is possible the herd may be below 200,000, which would place it in the Preservative level set forth in the Management Plan. (see Biological Background, Current Events)
Aircraft activity, concentration of hunting camps, and hunter positioning may be diverting caribou from critical corridors that in turn diverts them away from local communities. Concerns about herd deflection warrant additional investigation but, if occurring, such deflections could have long term detrimental impacts on subsistence opportunity for people that have economic, social and cultural dependence on caribou. Existing literature reports behaviorally and physiologically negative impacts on caribou by aircraft activity. (*see Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
FQSUs are already subject to substantial harvest restrictions, with reductions of authorized harvest by two-thirds recently in Federal regulations. The percentage of harvest by these users exemplifies the importance of caribou as a subsistence resource. (see *Regulatory History, Harvest History - Harvest from Unit 23, Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23*)
Harvest restrictions do not go far enough in addressing the need for subsistence opportunity in the face of long-term WACH population decline. Prompt application of all available tools may be necessary to avoid a more precipitous decline that would restrict all subsistence harvest. (see *Regulatory History, Current Events*)
Concentration of users on State lands may allow the herd to migrate relatively unimpeded along their major migration routes through Federal public lands. (see *Current Events*)

Data and arguments addressing the continuation of subsistence uses in relation to WSA16-03 have been compiled for Board consideration. These data are summarized in **Table 8** and **Table 9**.

Table 8. Points to consider, affecting the continuation of subsistence uses of caribou on Federal public lands in Unit 23, that support opening Federal public lands to the harvest of caribou by all users.

APPROVE WSA16-03 POINTS TO CONSIDER—CONTINUATION OF SUBSISTENCE USES
The harvest levels of FQSUs has remained relatively constant in recent years. This suggests that they are meeting their subsistence needs and successfully harvesting caribou. (see *Harvest History - Harvest from WACH & Harvest from Unit 23*)
There is a significant economic hardship on non-FQSUs as a result of the closure. Hunting plans and time commitments must be modified or cancelled in response. This in turn affects transporters and guides that also provide logistical support for these hunters. (see *Discussion, Current Events*)
Regardless of the duration of the closure, there are no mechanisms in place to evaluate the effectiveness of the closure in meeting its intended objectives. This closure does not provide temporary relief to FQSUs because it will concentrate non-FQSUs on State managed lands, increase tensions between users groups, and negatively affect former FQSUs that have since moved from the area but wish to continue hunting in Unit 23. (see *Discussion, Current Events*)
A large quantity of meat harvested by non-FQSUs in Unit 23 is distributed within local communities. Non-FQSUs are helping local people meet their caribou subsistence needs. (see *Current Events*)
Non-FQSUs contribute to the economy of the region. They spend money in transportation, supplies and logistics supporting transporters, guides and others. (see *Current Events*)
Non-FQSUs take relatively few animals from the region as compared to FQSUs, leaving the vast majority of the harvest for local subsistence uses. (see *Harvest History - Harvest from WACH & Harvest from Unit 23*)
Closures on Federal public lands will prevent non-FQSUs who previously lived in the area from accessing caribou in Unit 23. (see *Discussion, Current Events*)
Trash, camp equipment, and ATV use is restricted to prevent habitat degradation. The extent of habitat degradation caused by FQSUs and non-FQSUs is unknown. (see *Cultural Knowledge and Traditional Practices, Current Events*)

Table 8. Points to consider, affecting the continuation of subsistence uses of caribou on Federal public lands in Unit 23, that support opening Federal public lands to the harvest of caribou by all users.

APPROVE WSA16-03 POINTS TO CONSIDER—CONTINUATION OF SUBSISTENCE USES
User conflicts have been addressed through working groups, outreach campaigns, land management policies, and training requirements. State and Federal agencies are continuing to develop methods that reduce user conflicts in Unit 23. (see *Cultural Knowledge and Traditional Practices -User Conflicts in Unit 23, Current Events*)
Transporters and guides work closely with local communities to address concerns regarding aircraft activity and its perceived effects on caribou harvest and migration. (see *Regulatory History, Current Events*)
Aircraft activity will not cease under a closure. Other user groups will still be flying in the area including those hunting other species and accessing lands for recreational purposes, among other uses. (see *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
The wildlife resources of Alaska are important to all of its residents, not just those in proximity to a given resource. Many non-FQSUs depend on and value access to caribou. There is also an aspect of cultural identity held by non-FQSUs who have hunted caribou in Unit 23 for years and/or through generations. (see *Discussion, Harvest History - Harvest from WACH & Harvest from Unit 23, Current Events*)
Federal public lands are owned by all residents of the nation and equal access should be granted. No user group should be given preference. (see *Current Events*)

Table 9. Points to consider, affecting the continuation of subsistence uses of caribou on Federal public lands in Unit 23, that reject opening Federal public lands to the harvest of caribou by all users.

REJECT WSA16-03 **POINTS TO CONSIDER—CONTINUATION OF SUBSISTENCE USES**
FQSUs have to make more frequent hunting trips of longer duration and greater distance to achieve harvest levels similar to past harvest levels. Harvest success is variable among communities. Some communities report that user conflicts have negatively affected subsistence opportunity. (see *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
ANILCA Title VIII provides a subsistence priority use on Federal public lands. There is a significant economic hardship experienced by FQSUs who must expend greater time, energy, and money to harvest caribou. Purchase of commercial food products is very expensive in rural Alaska. The temporary closure implemented by WSA16-01 is only for one regulatory year. (see *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
In combination with the State's regulatory changes, the effects of these restrictions can be evaluated following the relatively short duration of closure and alongside of new population data from a successful photo-census. In addition, this may alleviate some user conflict. The temporary closure implemented by WSA16-01 is effective for one regulatory year. Rescinding the closure prior to its full implementation would remove opportunities for determining the effects of a closure. (see *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
Donated meat is primarily distributed in Kotzebue and not in other Unit 23 communities. It sometimes arrives spoiled or is taken during the rut. Subsistence includes more than caloric intake. It is way of life. The receipt of meat does not provide for a meaningful subsistence experience or address the social and cultural aspects of the subsistence way of life. (see *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
ANILCA Title VIII provides protection for the subsistence way of life and subsistence economies in rural Alaska. Furthermore, FQSUs report that non-FQSUs do not contribute substantially to the mixed cash-subsistence economy of the region as relatively few hunters purchase fuel and supplies from local communities. (see *Current Events*)
The percentage of caribou taken by FQSUs suggests the significance of caribou as a locally available subsistence resource. This importance and the resultant impacts on human health that lack of access to caribou would cause are alarming in light of a declining herd. Additionally, the high intensity of activity related to harvest by non-FQSUs causes disruption of subsistence. (see *Harvest History -Intensity of Use of Unit 23*, *Harvest History - Harvest from WACH & Harvest from Unit 23, Current Events*)

Table 9. Points to consider, affecting the continuation of subsistence uses of caribou on Federal public lands in Unit 23, that reject opening Federal public lands to the harvest of caribou by all users.

REJECT WSA16-03 POINTS TO CONSIDER—CONTINUATION OF SUBSISTENCE USES
Non-FQSUs who previously lived in the area may still hunt on State land and, possibly, Native corporation land. (see *Current Events*)
Public testimony and recent research (Halas 2015, Fix and Ackerman 2015) suggest that trash, camp equipment, and ATV use by non-FQSUs are contributing to habitat degradation and changes to caribou migration patterns. (see *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
User conflicts between FQSUs and non-FQSUs have been ongoing for several decades without significant relief. Agency actions to date have not resolved user conflict. Ongoing conflicts appear to threaten subsistence opportunity for FQSUs. Harvest areas also continue to overlap, increasing user conflict. (see *Harvest History - Intensity of Use of Unit 23*, *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
Local residents have reported that transporters and guides frequently fly at low altitudes around caribou herds and land in front of the migrating animals, causing herd diversion and deflection in critical corridors. (see *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
The effects of various aircraft activities are unknown at this time. Other users may not be flying to the same areas, the same habitat types, or at the same altitudes. The existing one regulatory year closure may yield information that speaks to this issue. (see *Harvest History - Intensity of Use of Unit 23*,*Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)
Changes in access to caribou may not be uniform in the region. In some areas where caribou harvest is low and other resources are not widely available, people may be going hungry. Non-FQSUs may be better financially situated to expend resources to hunt the animals in other areas. The Federal program under ANILCA Title VIII provides priority for subsistence use by residents residing in rural Alaska communities and possessing customary and traditional use findings for the resource. (see *Cultural Knowledge and Traditional Practices - User Conflicts in Unit 23, Current Events*)

Table 9. Points to consider, affecting the continuation of subsistence uses of caribou on Federal public lands in Unit 23, that reject opening Federal public lands to the harvest of caribou by all users.

REJECT WSA16-03 POINTS TO CONSIDER—CONTINUATION OF SUBSISTENCE USES
Title VIII of ANILCA provides for a subsistence priority on Federal public lands in Alaska for FQSUs. It also grants authority to the Board to restrict the taking of fish and wildlife for nonsubsistence uses when certain criteria are met. This includes in situations where closures are necessary for the conservation of healthy populations of fish and wildlife and/or when necessary for the continuation of subsistence uses. (see *Current Events*)

Additional Options for Board Consideration: Targeted Closures in Unit 23

As described previously, the Board's closure of Federal public lands to non-FQSUs was based on concerns pertaining to the continued decline of the WACH and to ensure the continuation of subsistence uses, especially in light of ongoing user conflicts and possible herd migration deflection by nonlocal hunters and their associated activities. Even with aerial survey data, population estimates associated with the WACH contain some uncertainty about the most appropriate management actions to follow from the WACH Management Plan. The population estimates derived from the 2016 aerial survey (200,928 animals), ADF&G's population models, and improved herd characteristics indicate that the population decline may be slowing. However, the herd remains close to the management plan's threshold for preservative management (see **Table 2**).

Questions remain as to whether restricting non-FQSU annual caribou harvest in Unit 23 will result in measurable advantages for the herd. Discussions about the current closure of caribou hunting in Unit 23 to all but FQSUs should also take into consideration ongoing conflict between user groups in the area and how this may affect the continuation of subsistence uses of caribou in the region, most notably through herd diversion and deflection by nonlocal hunter activities along migration routes, the concentration of nonlocal hunter camps along these routes, and nonlocal hunter positioning in front of migrating caribou.

As is evidenced by **Map 7, Map 8,** and **Figure 9**, and through extensive public testimony, the intensity of harvest activity for both FQSUs and non-FQSUs in Unit 23 occurs in the same general area. This area primarily consists of a coastal corridor in the westernmost section of Unit 23, extending along the mainstem of the Noatak River and south to the vicinity of Buckland. Communities located within this area of hunting intensity include Noatak, Sheshalik, Kiana, Noorvik, and Selawik. Other communities in the management unit may be affected by changes to herd migration but are not within this corridor.

The Squirrel River drainage has received considerable attention related to this issue. This drainage was discussed by members of the Northwest Arctic Council as being particularly problematic because of the intensity of use by "nonlocal" hunters and herd diversion at key locations in the upper part of the drainage, including the area between the Squirrel River and the Agashashok River. Members also mentioned

concerns regarding the intensity of hunting along the Baldwin Peninsula. The most intense hunting activities and harvest by "nonlocals" between 2005 and 2014 are within the Squirrel River drainage and the Baldwin Peninsula as is evidenced on **Map 7** and **Map 8**.

Opponents to the closure, including the proponent of WSA 16-03, have cited the large proportion of Unit 23 that includes Federal public lands (69%), the probable concentration of hunters on State land in the unit, and the relatively small percentage of the harvest that is taken annually by non-Federally qualified hunters as reasons for their opposition. Some non-Federally qualified hunters have also testified that the closure may negatively affect the herd by concentrating nonlocal hunters along other migration corridors or critical habitat areas. They have also testified that the closure presents substantial economic hardships for non-FQSUs that are forced to cancel or modify their hunting plans for the 2016 regulatory year. Additionally, some have testified that the closure will intensify user conflicts moving forward.

Map 10 depicts the spatial extent of Federal public lands, State lands, Native Patent or Interim Conveyance Lands, and selected lands within Unit 23. Non-FQSUs are currently allowed to hunt caribou on State patent, tentative approval, and State selected lands which compose approximately 8,888 mi^2 within the unit.

Native patent/interim/selected conveyance lands (composing approximately 5,095 mi^2) and Native allotments (approximately 263 mi^2) include more variation on management and access authorities. These lands are primarily considered private lands and require landowner permission for hunting access. Importantly, some private land owners will allow hunting upon payment of a trespass fee and some corporations owning land will allow hunting by their shareholders and other designees. In short, without additional permissions, non-FQSUs may currently hunt on State patent or tentative approval land only.

In order to address subsistence user concerns about conservation and the continuation of subsistence uses in Unit 23 while also potentially mitigating the effects of the closure on non-FQSUs, the Board may wish to consider alternatives to the closure of all of Unit 23. Such alternatives could maintain the closure of Federal public lands in proximity to the high harvest intensity corridor mentioned previously and depicted on **Map 7, Map 8,** and **Figure 9**. This approach could potentially open a portion of Federal public lands in Unit 23 to non-Federally qualified hunters while reducing harvest intensity, herd diversion, and conflicts within the high harvest corridor. Local land managers, in collaboration with FQSUs, may be able to provide the Board with additional insight and precision for targeted closures if these are to be considered.

The Office of Subsistence Management has developed three examples that reflect corridors of high harvest activity (**Map 7, Map 8,** and **Figure 9**) and public testimony regarding areas of high user conflict. The examples provided below are offered to stimulate discussions about alternative options and represent a limited number of possible partial closure options that may be available. Local and traditional knowledge held by local residents and land managers may provide the additional insight necessary for targeted closures within Unit 23. For example, the Selawik National Wildlife Refuge Manager (Georgette 2016, pers. comm) raised questions about examples two and three because 1) they include areas largely utilized by former FQSUs and those with familial ties to the region and 2) closures in the southern portion of the Unit during the fall hunting season fail to reflect that most caribou are absent from the area at this time of year. It may also be worth noting that any partial re-opening of Unit 23 to non-FQSUs would eliminate the possibility of

evaluating the full impact of the closure on the conservation of the herd and the continuation of subsistence uses.

These examples are depicted in **Maps 11, 12**, and **13**, and include:

- Closure within the entire Noatak River drainage in Unit 23 to include Federal public lands in Noatak National Preserve. Additional closures in Selawik National Wildlife Refuge west of a line through 160°W Longitude, Bureau of Land Management lands in the Squirrel River drainage, along the Buckland Peninsula and those in proximity to the communities of Buckland and Candle (**Map 11**).[6]

- Closure of all Federal public lands in Unit 23 to the west of a line through 160°W Longitude within Unit 23. This line runs through the community of Selawik (**Map 12**).

- Closure of all Federal public lands in Unit 23 to the east of a line through 163 °W Longitude and west of a line through 160°W Longitude within Unit 23 (**Map 13**).

Each of the above examples includes closures on varying extents of Federal public land in Unit 23 (**Table 10**). A full closure encompasses the greatest percentage of Unit 23 (approximately 68%, followed by Example 1 (34%), Example 2 (28%), and Example 3 (21%).

Table 10. Percentage of land affected by different options.

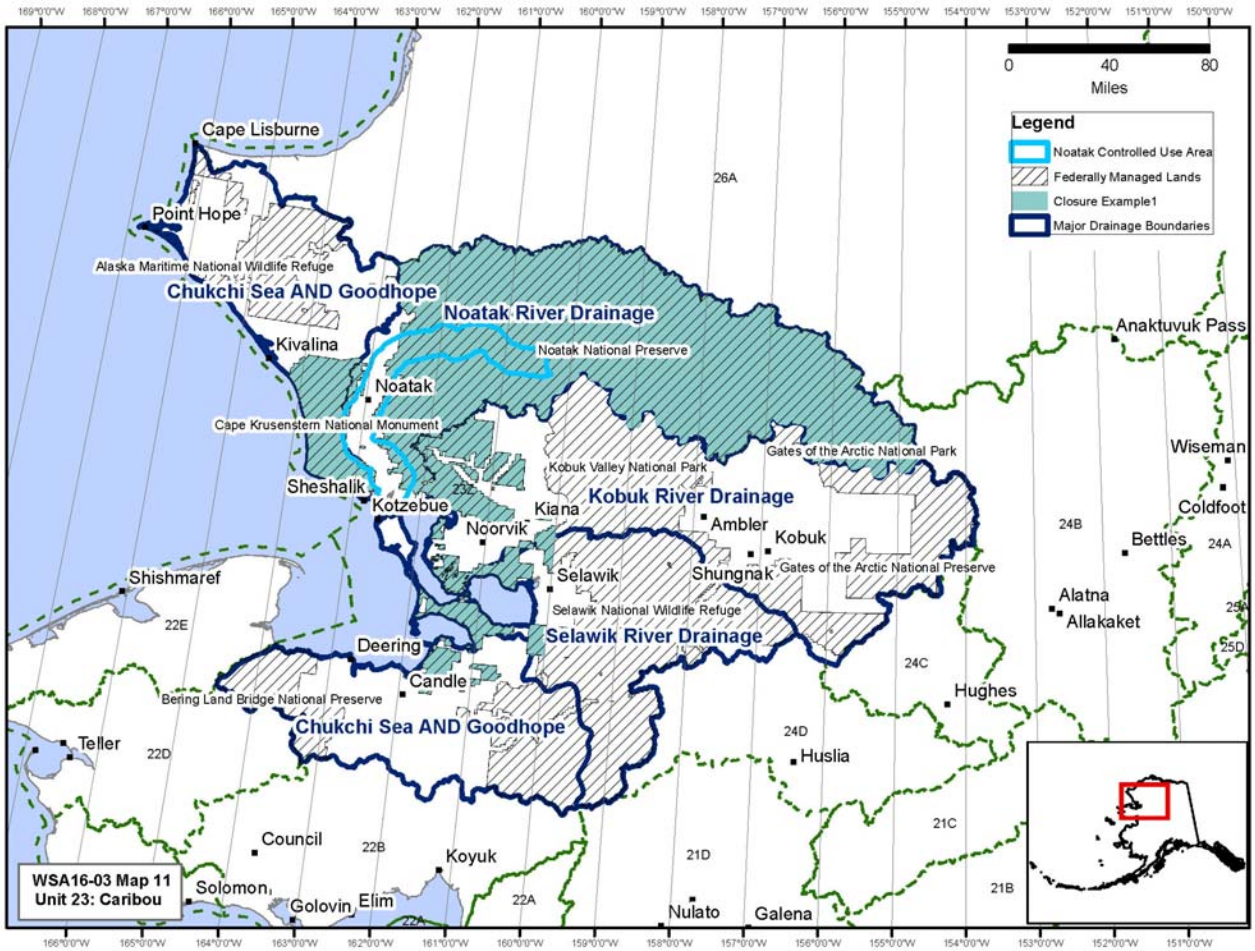
Option	% Unit 23	% Federal public lands	Option Closure Area (mi^2)	Total Unit 23 Area (mi^2)	Total Federal public lands (mi^2)
Full closure	68	100	32,298	43,402	29,412
1	34	46	14,862		
2	28	37	11,980		
3	21	29	9,307		

Considering range maps produced for the WACH Cooperative Management Plan (2011; **Figures 10** and **11)**, Examples 1–3 would provide non-Federally qualified hunters with substantial access to the herd in the eastern portion of their migration route. Access to the herd is most restrictive in Example 1 because this option maintains the closure of the entire Noatak River drainage, which may preserve movements of caribou both eastward and westward (toward Anaktuvuk Pass) within the drainage by limiting hunter disturbance. Additionally, the middle and upper Noatak River corridor was originally included in the traditional council of Noatak's proposal to the Board of Game in March 1988 to create a Controlled Use Area to address user conflicts. The Board of Game amended to the proposal to include an area one third the size of the request, representing those areas where most subsistence hunting took place and where caribou were most vulnerable to "spooking" by aircraft (Fall 1990:1987). This example may therefore address

[6] National Parks and National Monuments are already closed to non-Federally qualified subsistence users. Therefore, Gates of the Arctic National Park, Kobuk Valley National Park and Cape Krusenstern National Monument are depicted in these examples but do not represent new closures to non-Federally qualified subsistence users on Federal public lands.

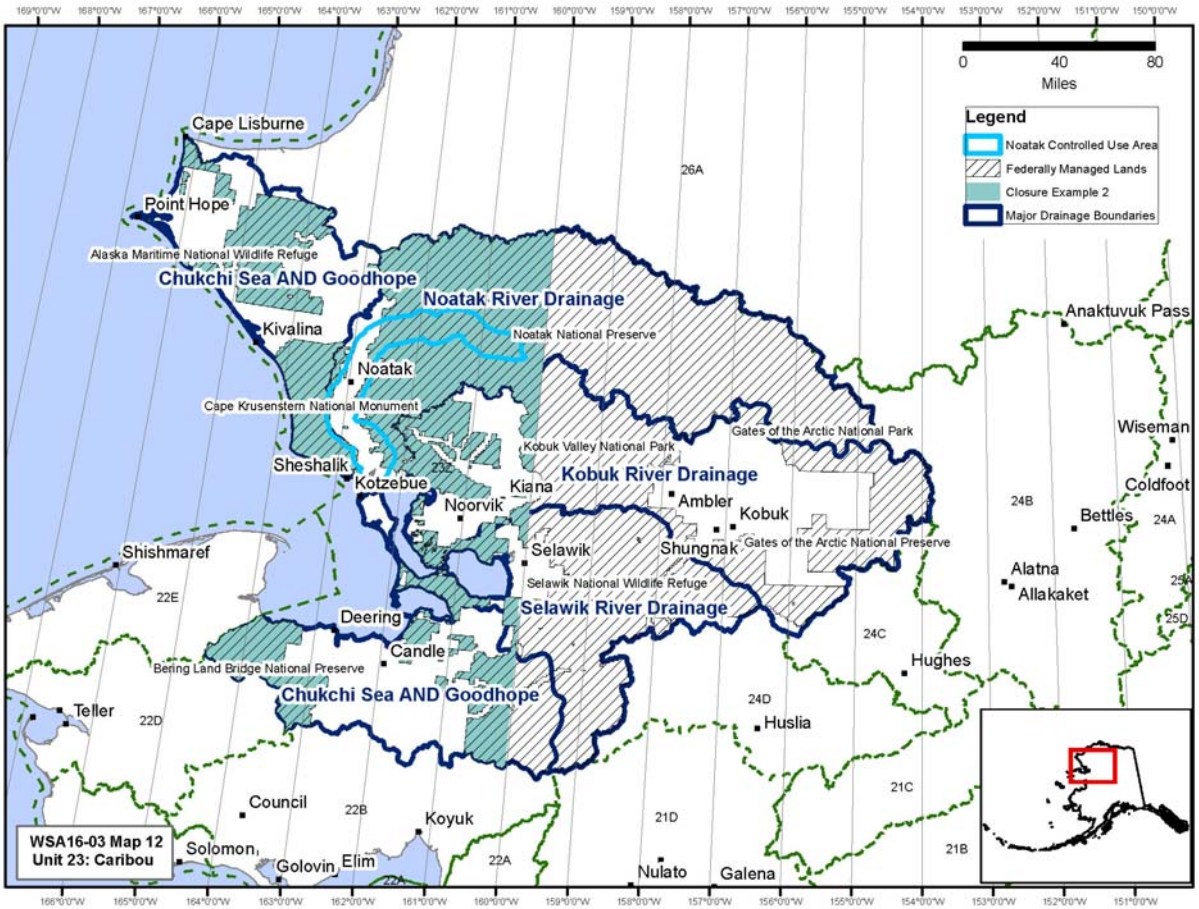
ongoing concerns not fully resolved by the Board of Game in 1988 or by the NPS Special Commercial Use Area created in 2012.

In each of the three examples discussed above, non-FQSUs would maintain access to Federal public lands within the largest fall and spring migration corridors located in the eastern portion of Unit 23 (see **Figure 9** [Part a] and **Figure 9** [Part b]) and hunting disturbances would be limited within the corridor identified as having received the greatest hunting pressure between 2005 and 2014, potentially resulting in improved herd migration to those areas. Southward herd movements in the fall (see **Figure 11** [Part a]) would possibly experience less disturbance by non-FQSUs in western corridors, potentially resulting in increased movements into those areas. Similarly, northward herd movements in the spring (**Figure 11** [Part b]) would receive less non-Federally qualified hunter disturbance in smaller western corridors.



Map 11. Federal public lands that would be closed to non-Federally qualified subsistence users under Example 1.[7]

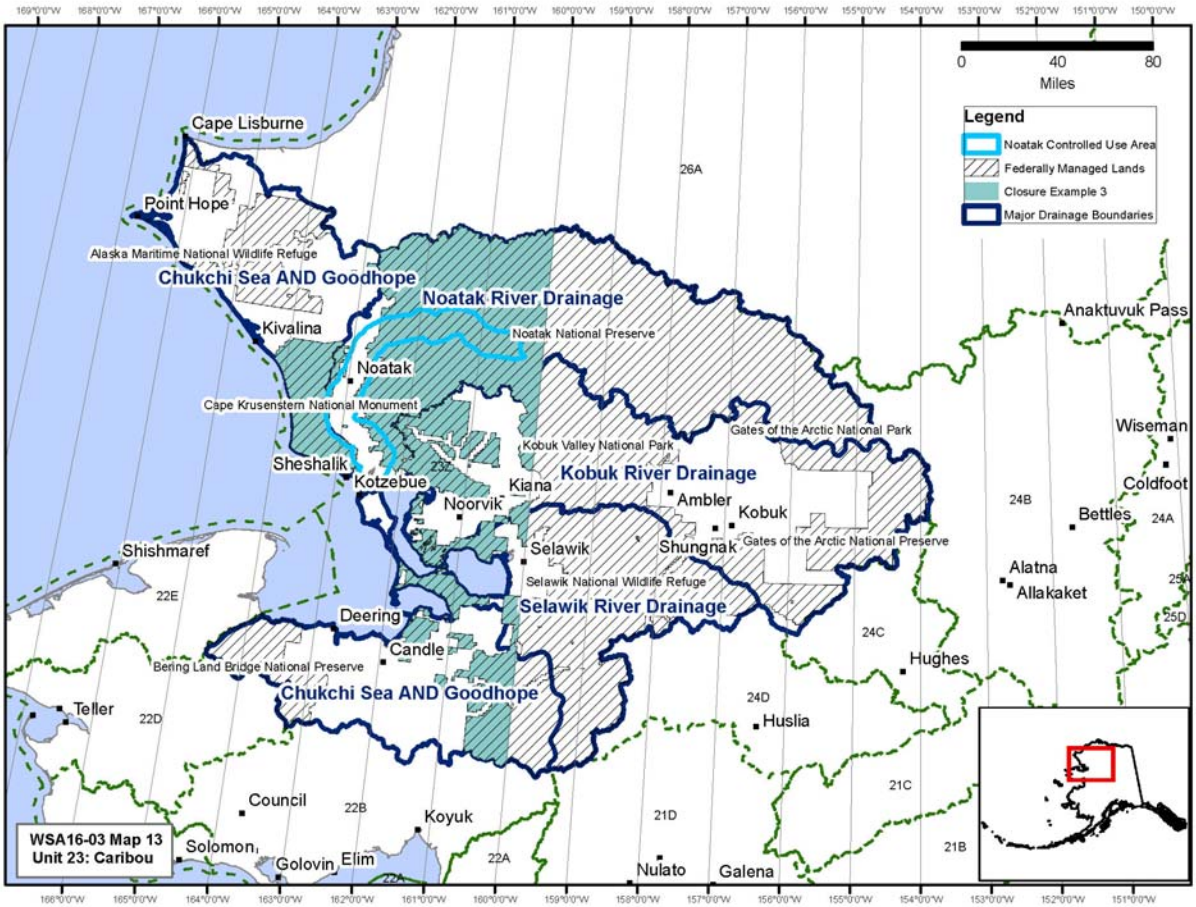
[7] National Parks and National Monuments are already closed to non-Federally qualified subsistence users. Therefore, Gates of the Arctic National Park, Kobuk Valley National Park and Cape Krusenstern National Monument are de-



Map 12. Federal public lands that would be closed to non-Federally qualified subsistence users under Example 2.[8]

picted in these examples but do not represent new closures to non-Federally qualified subsistence users on Federal public lands.

[8] National Parks and National Monuments are already closed to non-Federally qualified subsistence users. Therefore, Gates of the Arctic National Park, Kobuk Valley National Park and Cape Krusenstern National Monument are depicted in these examples but do not represent new closures to non-Federally qualified subsistence users on Federal public lands.



Map 13. Federal public lands that would be closed to non-Federally qualified subsistence users under Example 3.[9]

[9] National Parks and National Monuments are already closed to non-Federally qualified subsistence users. Therefore, Gates of the Arctic National Park, Kobuk Valley National Park and Cape Krusenstern National Monument are depicted in these examples but do not represent new closures to non-Federally qualified subsistence users on Federal public lands.

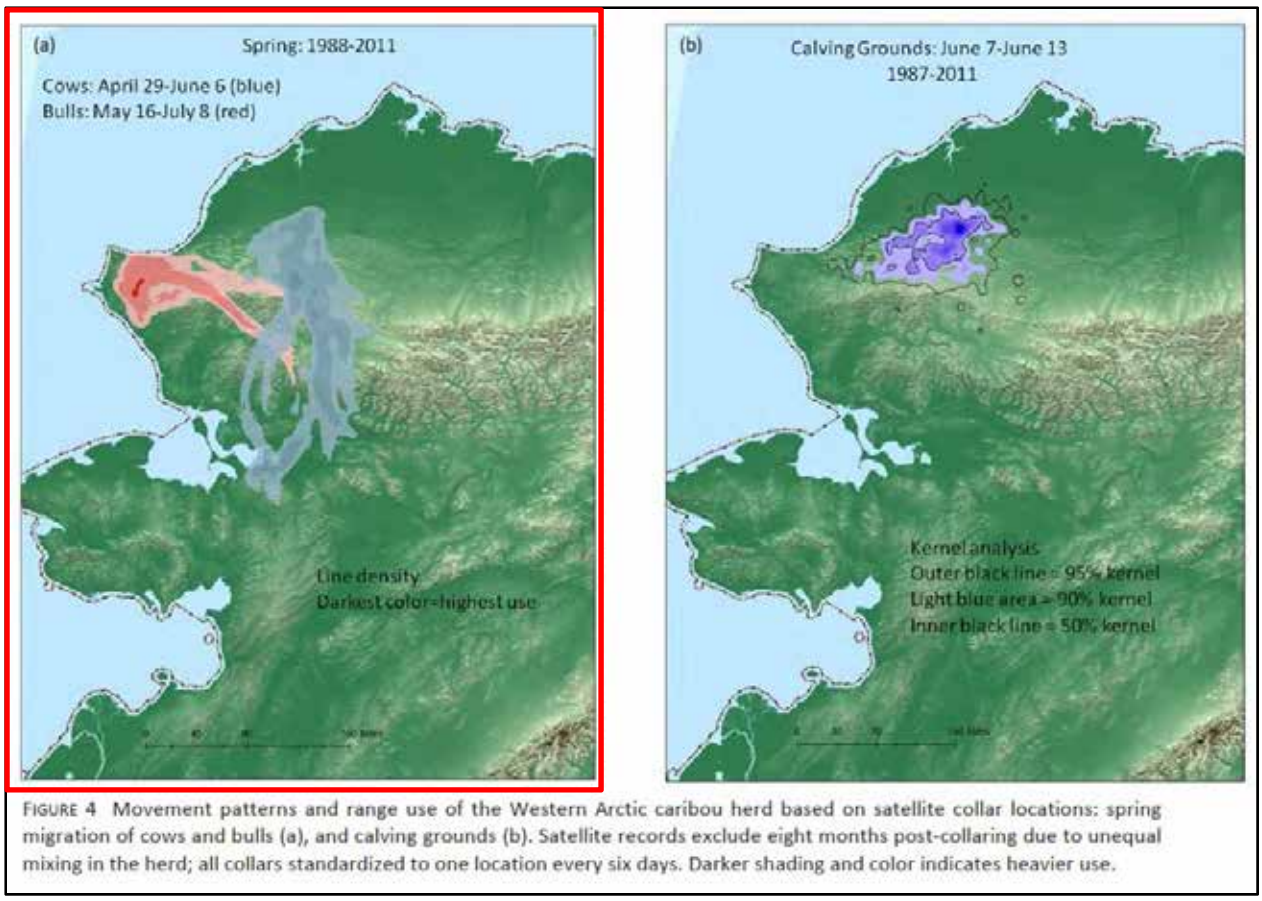


FIGURE 4 Movement patterns and range use of the Western Arctic caribou herd based on satellite collar locations: spring migration of cows and bulls (a), and calving grounds (b). Satellite records exclude eight months post-collaring due to unequal mixing in the herd; all collars standardized to one location every six days. Darker shading and color indicates heavier use.

Figure 10. Area used by WACH in spring 1988–2011 and calving grounds 1987–2011 (borrowed from Western Arctic Herd Cooperative Management Plan, 2011).

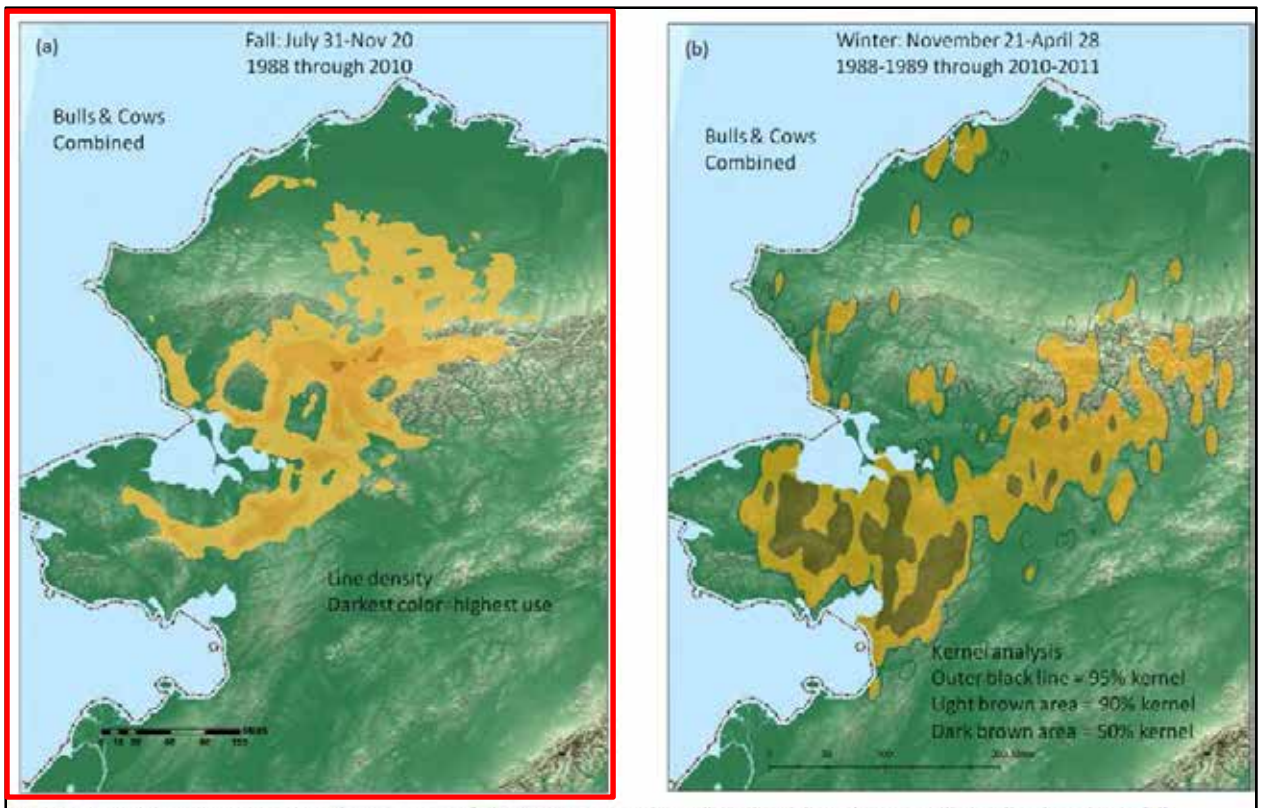


FIGURE 6 Movement patterns and range use of the Western Arctic caribou herd based on satellite collar locations: fall migration period (a), and winter period (b). Satellite records exclude eight months post-collaring due to unequal mixing in the herd; all collars standardized to one location every six days. Darker shading and color indicates heavier use.

Figure 11. Area used by WACH in fall 1988 through 2010 and winter 1988 through 2010 (borrowed from Western Arctic Herd Cooperative Management Plan, 2011).

LITERATURE CITED

Ackerman, A. and P.J. Fix. 2015. Noatak National Preserve sport hunter survey. Caribou hunters from 2010-2013. Natural resources report. National Park Service.

ADF&G. 1988. Regulatory Proposals Submitted to the Alaska Board of Game, March 1988. Division of Boards, Juneau.

ADF&G. 1991. Customary and Traditional Worksheets. Arctic Region: North Slope Area: GMU's 23, 24, 26. Division of Subsistence, Juneau, Alaska.

ADF&G. 1992. Customary and Traditional Worksheets. Northwest Alaska GMU's 22 and 23, Black Bear, Brown Bear, Caribou, Dall Sheep, Moose, Muskoxen. Division of Subsistence, Kotzebue, Alaska.

ADF&G. 2015a. Alaska Board of Game Meeting Audio: Jim Dau Report on the Western Artic Herd. Audio from meeting on 17 May 2015 beginning at timestamp 5:20:27. http://www.adfg.alaska.gov/static/regulations/regprocess/gameboard/swf/2014-2015/20150313_SC/indexlan.html . Retrieved 23 August 2016.

ADF&G. 2015. RC069. Estimated total caribou harvest by community, per capita caribou harvest by community, and data sources, GMUs 21, 22, 23, 24 and 26: Western Arctic caribou herd and Teshekpuk caribou herd. Alaska Board of Game Meeting Information. Southcentral Region, March 13-18, 2015. http://www.adfg.alaska.gov/static/regulations/regprocess/gameboard/pdfs/2014-2015/Southcentral_03_13_15/rcs/rc069_ADFG_Caribou_harvest_data.pdf. Accessed: February 22, 2016.

ADF&G. 2016a. Summary of Regulatory Changes for 2015–2016. Alaska Board of Game Meeting Information. Meeting materials from the Alaska Board of Game meeting in Anchorage March 13–18, 2015. Http://www.adfg.alaska.gov/index.cfm?adfg=gameboard.meetinginfo&date=03-13-2015&meeting=anchorage, accessed July 26, 2016.

ADF&G. 2016b. Community subsistence information system. http://www.adfg.alaska.gov/sb/CSIS/, accessed February 1. ADF&G. Division of Subsistence. Anchorage, AK.

ADF&G. 2016c. Harvest report online database. ADF&G, Anchorage, AK.

ADF&G. 2016d. GMU 23 Working Group. http://www.adfg.alaska.gov/index.cfm?adfg=plans.unit23 Retrieved August 3rd, 2016.

ADOLWD. 2016. Cities and Census Designated Places, 2010 to 2015. http://laborstats.alaska.gov/pop/popest.htm, accessed February 1, 2016. Labor Market Information (Research and Analysis). Juneau, AK.

Betcher, S. 2016. "Counting on Caribou: Inupiaq Way of Life in Northwest Alaska". Documentary video; duration 17:05. Farthest North Films. Available at http://www.farthestnorthfilms.com/. Accessed: August 26th, 2016.

Betchkal, D. 2015. Acoustic monitoring report, Noatak National Preserve – 2013 and 2014. National Park Service. file:///C:/Users/lmaas/Downloads/NOAT_Soundscape_Inventory_Report_2013_-_2014_Final_v2.pdf. Accessed: February 25, 2016.

BLM. 2011. Squirrel River Management Plan Scoping Report. Bureau of Land Management, Central Yukon Field Office. Fairbanks, AK. http://www.blm.gov/style/medialib/blm/ak/fdo/Squirrel_River_Plan.Par.82919.File.dat/Squirrel_scoping_report_Final_Sept2011.pdf 56 pp. Retrieved: July 18, 2016.

Bradshaw, C.J., S. Boutin, and D.M. Hebert.1997. Effects of petroleum exploration on woodland caribou in northeastern Alberta. *The Journal of wildlife management*.1127-1133.

Braem, N.M., S. Pedersen, J. Simon, D. Koster, T. Kaleak, P. Leavitt, J. Paktotak, and P. Neakok. 2011. Monitoring of caribou harvests in the National petroleum Reserve in Alaska: Atqusuk, Barrow, and Nuiqsut, 2003-2007. ADF&G, Division of the Subsistence, Technical Paper No 361, ADF&G, Fairbanks, AK

Braem, N.M., E.H. Mikow, S.J. Wilson, M.L. Kostick. 2015. Wild food harvests in three upper Kobuk River communities: Ambler, Shungnak, and Kobuk, 2012-2013. ADF&G Division of Subsistence, Technical Paper No. 402. Fairbanks, AK.

Burch, Jr., E. S. 1984. The Kotzebue Sound Eskimo. In Handbook of North American Indians--Arctic. Volume 5. Edited by David Damas. Smithsonian Institution, Washington, D.C.

Burch, Jr., E. S. 1994. The Cultural and Natural Heritage of Northwest Alaska. Volume V. Nana Museum of the Arctic, Kotzebue, Alaska and U.S. National Parle Service, Alaska Region. Anchorage, Alaska.

Burch, E.S. 1998. The Inupiaq Eskimo nations of Northwest Alaska. University of Alaska Press. Fairbanks, AK.

Burch, E.S. 2012. Caribou herds of Northwest Alaska. University of Alaska Press. Fairbanks, AK.

Calef, G.W., E.A. DeBock, and G.M. Lortie. 1976. The reaction of barren-ground caribou to aircraft. *Arctic*:201-212.

Caribou Trails 2014. News from the Western Arctic Caribou Herd Working Group. Western Arctic Caribou Herd Working Group, Nome, AK. Issue 14. http://westernarcticcaribou.org/wp-content/uploads/2014/07/CT2014_FINAL_lowres.pdf. Retrieved: June 23, 2015.

Dau, J. 2009. Units 21D, 22A, 22B, 22C, 22D, 22E, 23, 24, and 26A in Caribou survey–inventory management report. Pages 176-239 *in* P. Harper, editor. Caribou management report of survey and inventory activities July 1, 2006– June 30, 2008. ADF&G. Juneau, AK

Dau, J. 2011. Units 21D, 22A, 22B, 22C, 22D, 22E, 23, 24, and 26A caribou management report. Pages 187-250 *in* P. Harper, editor. Caribou management report of survey and inventory activities July 1, 2008–30 June 30, 2010. ADF&G. Juneau, AK.

Dau, J. 2013. Units 21D, 22A, 22B, 22C, 22D, 22E, 23, 24, and 26A caribou management report. Pages 201-280 *in* P. Harper, editor. Caribou management report of survey and inventory activities July 1, 2010–30 June 30, 2012. ADF&G. Juneau, AK.

Dau, J. 2014. Wildlife Biologist. Western Arctic Caribou Herd presentation. Western Arctic Caribou Herd Working Group Meeting, December 17-18, 2014. Anchorage, Alaska. ADF&G. Nome, AK.

Dau, J. 2015a. Units 21D, 22A, 22B, 22C, 22D, 22E, 23, 24 and 26A. Chapter 14, pages 14-1 through 14-89. *In* P. Harper, and Laura A. McCarthy, editors. Caribou management report of survey and inventory activities 1 July 2012–30 June 2014. Alaska Department of Fish and Game, Species Management Report ADF&G/DWC/SMR-2015-4, Juneau.

Dau, J. 2015b. Wildlife Biologist. Letter to the WACH Working Group members. Western Arctic Caribou Herd Working Group meeting. Dec. 16-17. Anchorage, AK.

Dau, J. 2016a. Memorandum to S. Machida dated June 21, 2016. 2016 Western arctic caribou herd calving survey: 4-12 June. ADF&G Division of Wildlife Conservation, Fairbanks, AK. 1 page.

Dau, J. 2016b. Memorandum to S. Machida dated April 26, 2016. 2016 Western Arctic caribou herd recruitment survey: 31 March and 5, 19, and 21 April. ADF&G Division of Wildlife Conservation, Fairbanks, AK. 1 page.

Fall, J.A. 1990. The Division of Subsistence of the Alaska Department of Fish and Game: An Overview of its Research Program and Findings: 1980-1990. *Arctic Anthropology* 27(2): 68-92.

Flydal K, P. Jordhoy, C. Nellemann, E. Reimers, O. Strand, and I Vistnes. 2002. Rapport fra REIN-posjektet. The Research Council of Norway.

Foote, D. C. 1959. The Economic Base and Seasonal Activities of Some Northwest Alaskan Villages: A Preliminary Study. U.S. Atomic Energy Commission.

Foote, D. C. 1961. A Human Geographical Study in Northwest Alaska. Final Report of the Human Geographic Studies Program, U.S. Atomic Energy Commission.

FWS. 1995a. Staff analysis P97–051. Pages 334-339 *in* Federal Subsistence Board Meeting materials April 10-14, 1995. Office of Subsistence Management, USFWS. Anchorage, AK. 398pp.

FWS. 1995b. Staff analysis P95–062. Pages 399-404 *in* Federal Subsistence Board Meeting materials April 10-14, 1995. Office of Subsistence Management, USFWS. Anchorage, AK. 488pp.

FWS. 1997. Staff analysis P97–066. Pages 879-895 *in* Federal Subsistence Board Meeting materials April 7-11, 1997. Office of Subsistence Management, USFWS. Anchorage, AK. 1034pp.

FWS. 2000a. Staff analysis P00–053. Pages 563-573 *in* Federal Subsistence Board Meeting materials May 2-4, 2000. Office of Subsistence Management, USFWS. Anchorage, AK. 661pp.

FWS. 2011. Revised Comprehensive Plan for Selawik National Wildlife Refuge Summary. U.S. Fish and Wildlife Service, Region 7. https://www.fws.gov/alaska/nwr/planning/pdf/selawik/final_ccp_summary.pdf Retrieved: July 22, 2016.

FWS. 2014. FY2014 Annual report reply to the Northwest Arctic Subsistence Regional Advisory Council. Office of Subsistence Management, USFWS. Anchorage, AK.

FWS. 2016a. Proposal document library. On file, OSM, Anchorage, AK.

FWS. 2016b. Special use permit database. Unpublished data. Selawik National Wildlife Refuge. Kotzebue, AK.

FWS 2016c. Harvest permit database. On file, OSM, Anchorage, AK.

FWS 2016d. Selawik National Wildlife Refuge: Permits. https://www.fws.gov/refuge/Selawik/visit/permits.html Retrieved July 22, 2016.

Georgette, S. and H. Loon. 1988. The Noatak River: Fall caribou hunting and airplane use. Technical Paper No. 162. ADF&G, Division of Subsistence. Kotzebue, AK.

Georgette, S., and H. Loon. 1993. Subsistence use of fish and wildlife in Kotzebue, a Northwest Alaska regional center. ADF&G, Division of Subsistence, Technical Paper No. 167. Fairbanks, AK.

Georgette, S. 1994. Summary of Western Arctic Caribou Herd overlays (1984-1992) and comparison with harvest data from other sources. Unpublished manuscript. ADF&G, Division of Subsistence, Fairbanks, AK. 26 pp.

Georgette, S. 2016. Manager. Personal communication: by email. Selawik National Wildlife Refuge, Kotzebue, AK.

Gunn, A. 2001. Voles, lemmings and caribou – population cycles revisited? Rangifer, Special Issue. 14: 105-111.

Halas, G. 2015. Caribou migration, subsistence hunting, and user group conflicts in Northwest Alaska: A traditional knowledge perspective. University of Fairbanks-Alaska. Fairbanks, AK.

Harrington, A.M. and P.J. Fix. 2009. Benefits based management study for the Squirrel River area. Project report for USDI Bureau of Land Management. Department of Resources management. University of Alaska-Fairbanks. Fairbanks, AK.

Harrington, F.H. and A.M. Veitch. 1991. Short-term impacts of low-level jet fighter training on caribou in Labrador. *Arctic*:318-327.

Holand, O., R.B. Weladji, A. Mysterud, K. Roed, E. Reimers, M. Nieminen. 2012. Induced orphaning reveals post-weaning maternal care in reindeer. European Journal of Wildlife Research. 58: 589-596.

Jacobson, C. 2008. Fall hunting in game management unit 23: assessment of issues and proposals for a planning process. ADF&G. Unpublished report. Juneau, AK.

Joly, K. 2000. Orphan Caribou, *Rangifer tarandus*, Calves: A re-evaluation of overwinter survival data. The Canadian Field Naturalist. 114: 322-323.

Joly, K., R.R. Jandt, C.R. Meyers, and J.M. Cole. 2007. Changes in vegetative cover on the Western Arctic herd winter range from 1981–2005: potential effects of grazing and climate change. Rangifer Special Issue 17:199-207.

Joly, K. 2015. Wildlife Biologist, Gates of the Arctic National Park and Preserve. Personal communication. email NPS. Fairbanks, AK.

Klein, D. R., Moorehead, L., Kruse, J., & Braund, S. R. (1999). Contrasts in use and perceptions of biological data for caribou management. Wildlife Society Bulletin, 488-498.

Kruse, J., Klein, D., Braund, S., Moorehead, L., & Simeone, B. (1998). Co-management of natural resources: a comparison of two caribou management systems. Human Organization, 57(4), 447-458.

Lenart, E. A. 2011. Units 26B and 26C caribou. Pages 315-345 *in* P. Harper, editor. Caribou management report of survey and inventory activities 1 July 2008–30 June 2010. ADF&G. Project 3.0. Juneau, AK.

Loon, H. 2007. *Uqausriptigun* in our own words: Selawik elders speak about caribou, reindeer and life as they knew it. USFWS, Selawik National Wildlife Refuge. Kotzebue, AK.

Luick, B.R., J.A. Kitchens, R.G. White, R.G. and S.M. Murphy. 1996. Modeling energy and reproductive costs in caribou exposed to low flying military jet aircraft. *Rangifer 16*(4):209-212.

Magdanz, J.S., D.S. Koster, L. Naves, and P. Fox. 2011. Subsistence harvests in northwest Alaska, Buckland and Kiana, 2003 and 2006. Alaska Department of Fish and Game, Division of subsistence Technical Paper No. 363. Anchorage, AK.

Maier, J.A., S.M. Murphy, R.G. White, and M.D. Smith. 1998. Responses of caribou to overflights by low-altitude jet aircraft. *The Journal of wildlife management*:752-766.

Miller, F.L. 2003. Caribou (*Rangifer tarandus*). Pages 965-997 *in* Feldhamer, B.C. Thompson, and J.A. Chapman, *eds*. Wild Mammals of North America- Biology, Management, and Conservation. John Hopkins University Press. Baltimore, Maryland.

NPS. 2016. Resource protection update and coordination summary. Subsistence Resource Commission February 2016 Meeting. National Park Service. Kotzebue, AK.

NSRAC. 2015. Transcripts of the North Slope Subsistence Regional Advisory Council proceedings, November 4, 2015 in Anaktuvuk Pass, AK. Office of Subsistence Management, FWS. Anchorage, AK.

NSRAC. 2016. Transcripts of the North Slope Subsistence Regional Advisory Council proceedings. October 16, 2016. Barrow, AK. Office of Subsistence Management, USFWS. Anchorage, AK.

NWARAC. 2015. Transcripts of the Northwest Arctic Subsistence Regional Advisory Council proceedings, October 7, 2015 in Buckland, AK. Office of Subsistence Management, FWS. Anchorage, AK.

NWARAC. 2016. Transcripts of the Northwest Arctic Subsistence Regional Advisory Council proceedings, March 10, 2016 in Anchorage, AK. FWS Office of Subsistence Management. Anchorage, AK.

NWARAC AND NSRAC. 2016. Transcripts of the Joint Meeting of Northwest Arctic and North Slope Subsistence Regional Advisory Council proceedings. March 11, 2016 in Anchorage, AK. Office of Subsistence Management, FWS. Anchorage, AK.

OSM. 2007. Policy on closures to hunting, trapping and fishing on Federal public lands and waters in Alaska. Federal Subsistence Board. Office of Subsistence Management. Anchorage, AK.

Parrett, L.S. 2011. Units 26A, Teshekpuk caribou herd. Pages 283-314 *in* P. Harper, editor. Caribou management report of survey and inventory activities 1 July 2008–30 June 2010. ADF&G.. Project 3.0. Juneau, AK.

Parrett, L.S. 2013. Unit 26A, Teshekpuk caribou herd. Pages 314-355 in P. Harper, editor. Caribou management report of survey and inventory activities 1July 2006–30 June 2008. ADF&G species management report. ADF&G/DWC/SMR-2013-3, Juneau, AK.

Parrett, L., J. Dau, M. Nedwick. 2014. Four North slope caribou herds counted behind the numbers: how are the caribou? Alaska Fish & Wildlife News. Aug. 2014. http://www.adfg.alaska.gov/index.cfm?adfg=wildlifenews.view_article&articles_id=678. Accessed Aug. 30, 2016.

Parrett, L.S. 2015a. Western Arctic Caribou Herd Overview presentation. Presented at the Western Arctic Caribou Herd Working Group meeting. Dec. 16-17. Anchorage, AK.

Parrett, L.S. 2015b. What happens next? Harvest and Regulations in the Future presentation. Presented at the Western Arctic Caribou Herd Working Group meeting. Dec. 16-17. Anchorage, AK.

Parrett, L.S. 2015c. Memorandum to P. Bente, Management Coordinator, dated October 29, 2015. 2015 Western Arctic Herd (WAH) captured conducted September 15-17, 2015. ADF&G Division of Wildlife Conservation, Fairbanks, AK. 1 page.

Parrett, L.S. 2016a. Wildlife biologist. Personal communication: by email. ADF&G Division of Wildlife Conservation, Fairbanks, AK. 1 page.

Parrett, L.S. 2016b. Memorandum for distribution, dated August 25, 2016. Summary of Western Arctic Caribou Herd photocensus conducted July 1, 2016. ADF&G Division of Wildlife Conservation, Fairbanks, AK. 6 pages.

Prichard, A.K. 2009. Development of a Preliminary Model for the Western Arctic Caribou Herd. ABR, Inc. – Environmental Research and Services. Fairbanks, AK.

Russell, D.E., S.G. Fancy, K.R. Whitten, R.G. White. 1991. Overwinter survival of orphan caribou, *Rangifer tarandus*, calves. Canadian Field Naturalist. 105: 103-105.

Rughetti, M., M. Festa-Bianchet. 2014. Effects of selective harvest of non-lactating females on chamois population dynamics. Journal of Applied Ecology. 51: 1075-1084.

Satterthwaite-Phillips, D., C. Krenz, G. Gray and L. Dodd. 2016. Iñuuniałiqput Iḷiḷugu Nunaŋŋuanun (Documenting Our Way of Life through Maps). Northwest Arctic Borough. Kotzebue, AK. Pp. 558.

Selawik National Wildlife Refuge. 2016. Western Arctic Caribou Herd Working Group draft 2015 meeting summary. On file. https://www.fws.gov/uploadedFiles/Region_7/NWRS/Zone_2/Selawik/PDF/2015%20WACH%20WG%20Meeting%20Summary%20-%20DRAFT%20For%20Webposting.pdf, accessed September 13, 2016.

Seppi, B. 2016. Wildlife Biologist. Personal communication: email. Bureau of Land Management. Anchorage, AK.

Sutherland, R. 2005. Harvest estimates of the Western Arctic caribou herd, Alaska. Proceedings of the 10th North American Caribou Workshop. Girdwood, AK. 4-6 May 2004. Rangifer Special Issue No. 16: 177-184.

Taillon, J., V. Brodeur, M. Festa-Bianchet, S.D. Cote. 2011. Variation in body condition of migratory caribou at calving and weaning: which measures should we use? Ecoscience. 18(3): 295-303.

Trent, J., Kruse, J., & Leask, L. (1996). Understanding Harvest Assessment in the North. Girdwood, Alaska: Alaska Department of Fish & Game. Institute of Social and Economic Research.

Uhl, W. R. and C. K. Uhl. 1979. The Noatak National Preserve: Nuatalanitt, A Study of Subsistence Use of Renewable Resources in the Noatak River Valley. Cooperative Park Studies Unit, University of Alaska, Fairbanks, Occasional Paper No. 19.

Unit 23 Working Group. 2016. Meeting Summary of Unit 23 Working Group Meeting held in Kotzebue, Alaska on May 4-5, 2016.

Usher, P. J. (1995). Co-management of natural resources: Some aspects of the Canadian experience. Human ecology and climate: People and resources in the Far North. Washington: Taylor & Francis, 197-206.

Valkenburg, P. and J.L. Davis. 1985. The reaction of caribou to aircraft: a comparison of two herds. In *Proceedings of the North American Caribou Workshop* (1):7-9.

Vistnes, I. and C. Nellemann. 2008. The matter of spatial and temporal scales: a review of reindeer and caribou response to human activity. *Polar Biology*, *31*(4):399-407.

Western Arctic Caribou Herd Working Group. 2011. Western Arctic Caribou Herd Cooperative Management Plan – Revised December 2011. Nome, AK 47 pp.

Western Arctic Caribou Herd Working Group. 2015. Western Arctic Caribou Herd Cooperative Management Plan Table 1 Revision – December 2015. https://www.fws.gov/uploadedFiles/Region_7/NWRS/Zone_2/Selawik/PDF/WAH%20coop%20mgt%20plan%202011%20-%20Table%201%20Revision%202015.pdf. Accessed September 12, 2016.

WIARAC. 2016. Transcripts of the Western Interior Alaska Subsistence Regional Advisory Council proceedings. October 16, 2016. Galena, AK. Office of Subsistence Management USFWS. Anchorage, AK.

Wolfe, S.A., B. Griffith, and C.A.G. Wolfe. 2000. Response of reindeer and caribou to human activities. *Polar Research*, *19*(1):63-73.

APPENDIX 1

Appendix Table 1-1. The harvest and use of caribou by communities in Unit 23, based on household surveys, by study year.

CARIBOU HARVEST							
HOUSEHOLD HARVEST SURVEYS							
Community	Study year	Percentage of households using caribou	Caribou harvest				
			Estimated Harvest	Lower Estimate	Higher Estimate	Per Person	95% confidence interval
			(caribou)	(caribou)	(caribou)	(lb)	(+/- %)
Ambler	2012	91	685	646	845	330	23
	2009	78	456	380	531	260	17
	2003	95	325	301	361	176	11
Buckland	2009	67	535	448	622	168	16
Deering	2007	87	182	121	243	162	34
	1994	78	142	119	174	131	22
Kiana	2009	77	414	358	471	149	14
	2006	94	306	264	347	109	13
	1999	97	488	393	582	174	19
Kivalina	2010	79	86	52	120	32	40
	2007	93	268	190	347	85	29
	1992	97	351	316	386	138	9
	1983		564			284	
	1982		346			179	
	1965		1,010			830	
	1964		256			209	
Kobuk	2012	93	119	133	139	98	17
	2009	86	210	178	245	194	17
	2004	89	134	134	134	148	0
Kotzebue	2012	82	1,804	1,803	1,804	80	22
	1991	93	3,782	2,520	5,044	141	33
	1986	88	1,917			97	
Noatak	2010	56	66	45	87	16	32
	2007	97	442	373	510	114	15
	2002	91	410	374	446	120	9
	1999	96	683	621	755	224	11
	1994	91	615	550	680	221	10
Noorvik	2012	95	851	609	1,094	198	29
	2008	94	767	692	842	174	10
	2002	95	988	794	1,182	182	20
Selawik	2011	97	683	433	934	109	37
	2006		934	833	1,035	165	10
	1999	97	1,289	1,188	1,390	249	8
Shungnak	2012	93	396	351	509	196	29
	2008	95	406	341	471	218	16
	2002	98	403	381	436	220	8
	1998	100	561	541	596	312	6

Source: ADF&G 2016b. Blank cell=data not available.

APPENDIX 2

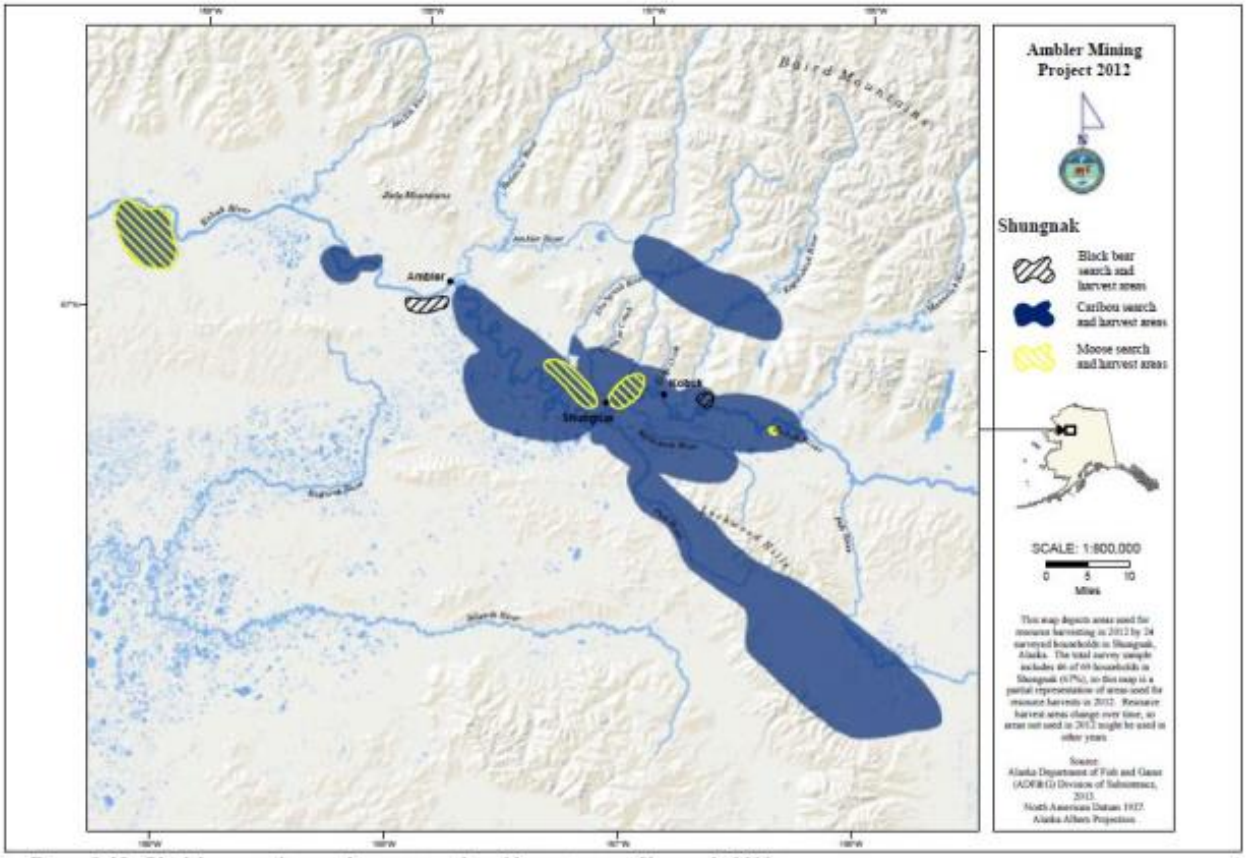


Figure 3-12.–Black bear, caribou, and moose search and harvest areas, Shungnak, 2012.

Appendix Map 2-1. Map depicting caribou, black bear, and moose search and harvest areas by residents of Shungnak in 2012 (Magdanz et al. 2011).

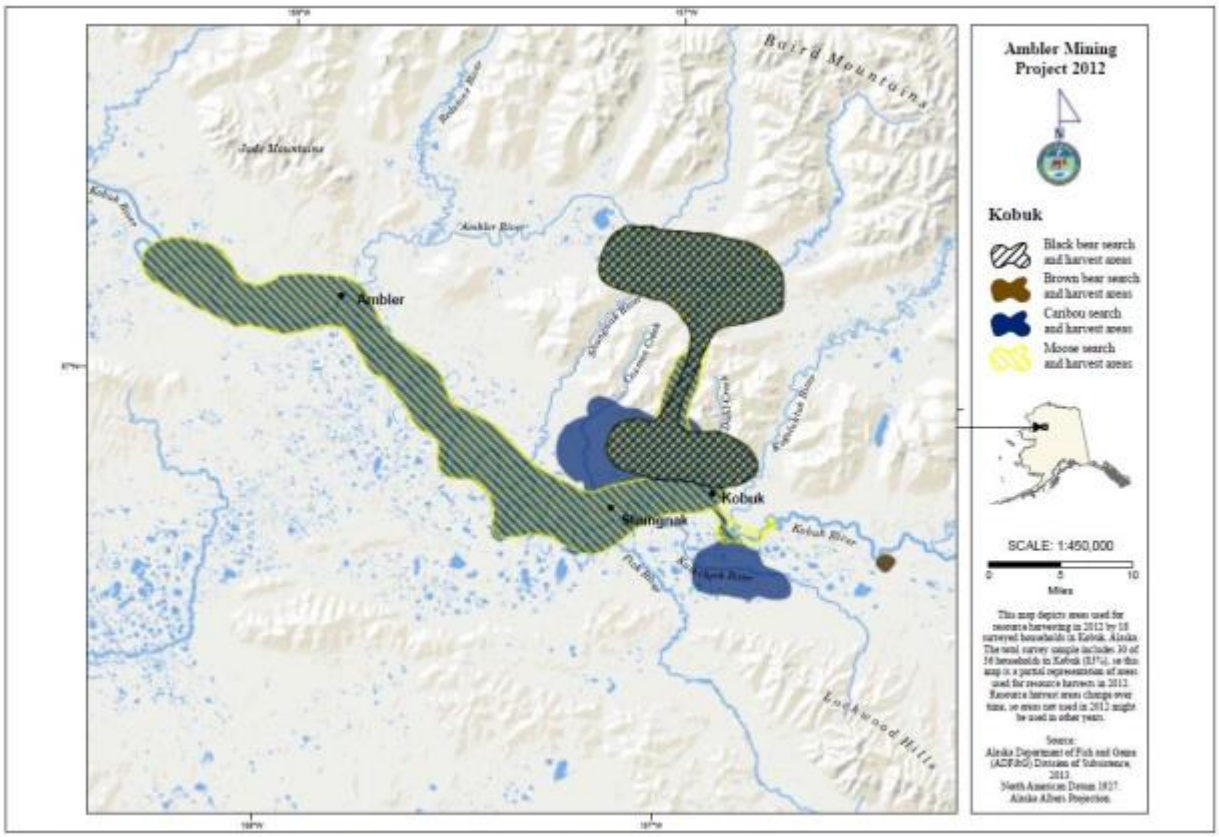


Figure 4-12.–Black bear, brown bear, caribou, and moose search and harvest areas, Kobuk, 2012.

Appendix Map 2-2. Map depicting caribou, black bear, brown bear, and moose search and harvest areas by residents of Kobuk in 2012 (Magdanz et al. 2011).

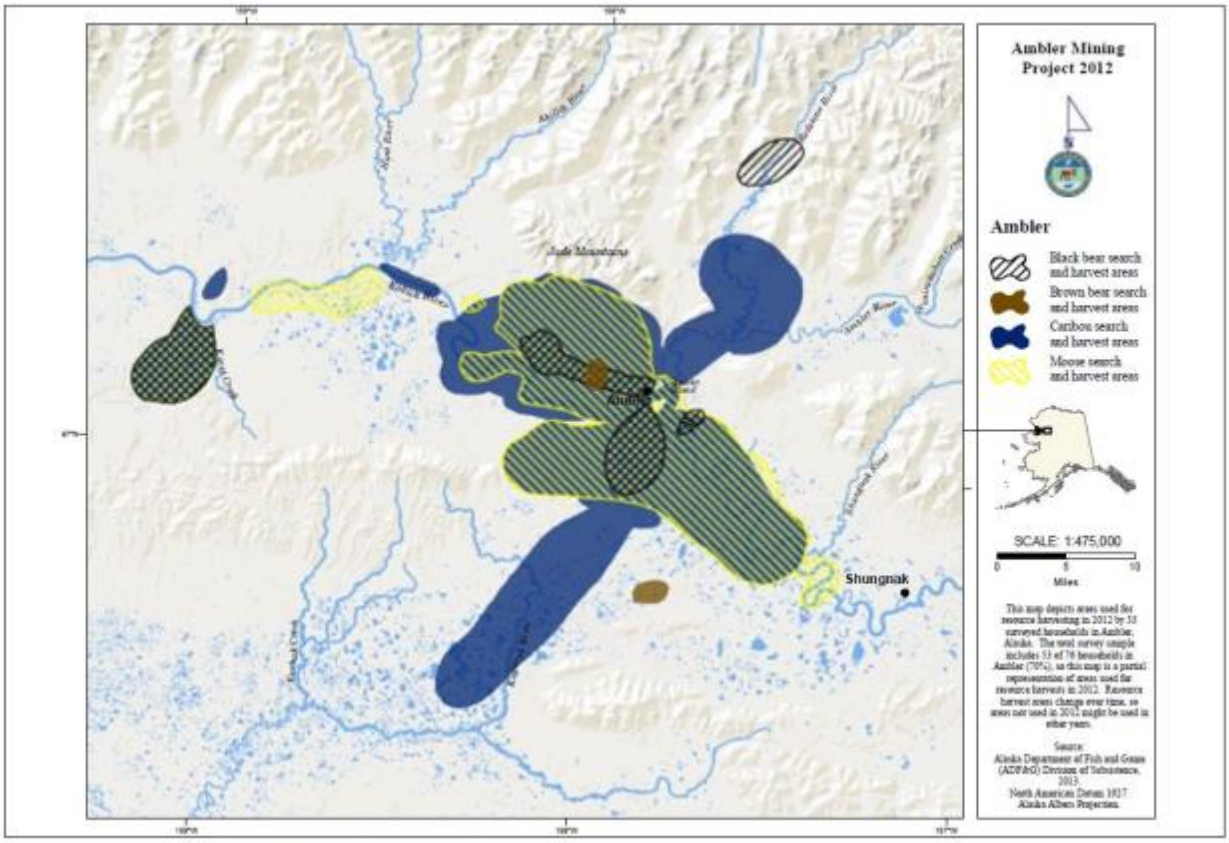


Figure 2-12.–Large land mammal search and harvest areas, Ambler, 2012.

Appendix Map 2-3. Map depicting caribou search and harvest areas by residents of Ambler in 2012 (Magdanz et al. 2011).

TEMPORARY SPECIAL ACTION
WSA16-03

INTERAGENCY STAFF COMMITTEE COMMENTS

Temporary Special Action Request WSA16-03 requests lifting the closure to caribou harvest in Unit 23 by nonsubsistence users. Regulations at 36 CFR 242.19(b)(1) and 50 CFR 100.19(b)(1) state that the Board *may reopen public lands to nonsubsistence uses if new information or changed conditions indicate that the closure is no longer warranted*.

In the request, the State stated that new information indicated improvements in caribou calf production, recruitment, survival, and weight; adult females exhibited very good body conditions and high pregnancy rates in 2015 and 2016; and the newly derived WACH population estimate for fall 2105 was 206,000 caribou, falling within the WACH Management Plan's "conservative" harvest management strategy. Subsequent to submitting the special action request, the State also finalized photo census data collected in July 2016, which included a point estimate of 200,928 caribou (Standard Error = 4,295) in the WACH.

The Board should focus its decision on whether the request provides sufficient information to indicate the closure is no longer warranted. While the State provided some encouraging population data, the point estimate and associated error shows that there is still some uncertainty on whether the WACH is at the conservative or preservative level based. Further, the Board's decision to initially close Federal public lands (WSA16-01) was based on impacts to subsistence users, but WSA16-03 does not provide new information or show that conditions related to that aspect of the Board's decision have changed.

Since the population trajectory of the WACH herd suggests it may still be in decline, the ISC would like to encourage efforts to involve as many participants as possible in the discussion of potential future actions. The WACH Management Plan lists the closure of ***some*** Federal public lands to nonqualified users as a possible recommendation for the preservative management level (emphasis added); thus, closure of specific Federal lands may be an option to minimize impacts to subsistence users. In anticipation of additional special action requests coming from the Unit 23 region, the Board could direct staff to initiate discussions about user conflicts on specific Federal public lands with affected Councils, subsistence resource commissions, the WACH Working Group, Unit 23 Working Group, the State of Alaska, Tribes and ANCSA Corporations, and other users.

To submit a Special Action request, please provide the following information:

Lem Butler
Alaska Department of Fish and Game
PO Box 115526, Juneau, Alaska 99801
Lem.butler@alaska.gov
907-465-4191

Describe the action you are requesting. Reference the current regulations you wish to change.

The State of Alaska (State), through the Department of Fish and Game, requests that the Federal Subsistence Board (board) reopen federal public lands in Unit 23 to caribou hunters who do not qualify to hunt under the federal subsistence regulations. WSA16-01closed caribou hunting on federal lands in Game Management Unit 23 to all but federally qualified users from July 1, 2016 through June 30, 2017.

Have there been unusual or significant changes in resource abundance or unusual conditions affecting harvest opportunities that could not reasonably have been anticipated and that potentially could have significant adverse effects on the health of fish and wildlife populations or subsistence users?

Sufficient new information exists for the board to reconsider its decision and immediately repeal WSA16-01. Some information provided to the board was not used correctly, and the board did not adequately address the impacts of its decision. We ask the board to reverse its decision and honor the Western Arctic Caribou Herd Management Plan and considerable efforts of the group and the state and federal agencies that support it.

New information collected by the State on calf recruitment and survival in the Western Arctic caribou herd (WAH), which was not available during the April 2016 FSB meeting, indicate much improved performance of these vital rates. During 2015, State biologists at Onion Portage and local hunters observed that WAH caribou were in very good condition relative to prior years. Average body condition of adult females that biologists handled was characterized as "fat" (mean = 3.9 out of 5 possible scores for very skinny, skinny, average, fat, very fat; n =43). None of the caribou were rated as skinny or very skinny compared to the previous years' (1995-2014), average of 14% skinny or very skinny females. In addition, calf weights averaged 100 lbs. (averaging 11 lbs. heavier than the 2008-2014 average), which is the highest average calf weight that the State has recorded in the eight years the department began collecting calf weights at Onion Portage.

Additionally, overwinter calf survival for the 2015 cohort of calves is currently 82%. Evidence of this high survival rate was also observed during the spring 2016 recruitment survey, with 23 yearlings:100 adults observed. This measure of calf recruitment into the population was the highest recorded since 2007, and the second highest recorded since 1997. State biologists have also documented improved calf production in 2016. During the June 4-12, 2016 a

pregnancy rate of 85% was documented, which is the second highest pregnancy rate on record. Both of measures of reproductive success are consistent with the generally good body condition of caribou that were observed during these surveys, and with a relatively low annual adult cow mortality rate up to the time of this report (8% as of April 2016).

Taken as a whole, this new information indicates that the population is experiencing improved performance and has likely undergone a relatively slight decline recently compared to previous years. In fact, after applying the population model, the population was estimated to contain 206,000 caribou as of fall 2015, a decline of only 12.3% since the last population count in 2013. This new information also continues to support the board's conclusion stated at the April 2016 meeting that there is no biological concern associated with the small harvest by nonfederally qualified users. (Approximately 600 caribou are taken by nonfederally qualified users, out of approximately 12,000 caribou taken annually).

The most recent predictions of population size were generated using a population model that incorporates the new information and indicates that the population is declining at a much slower rate or stabilizing. This model predicts that the WAH currently numbers 206,000 caribou, which places it in the management plan's "conservative" harvest management strategy.

Is the requested special action to ensure the continued viability of a fish or wildlife population, to continue subsistence uses of fish and wildlife, or for public safety reasons?

No, not for continued viability or for public safety. However, the action would provide for subsistence uses by non-federally qualified users and formerly federally qualified users.

What are the extenuating circumstances that necessitate a regulatory change before the next regulatory review?

Swift action by the FSB is needed to remedy the social and economic hardships imposed by the decision to close federal lands to nonfederally qualified hunters before the caribou season in Unit 23 opens on July 1, 2016 for resident Alaskans and August 1, 2016 for nonresidents. The board's decision to adopt WSA16-01 lacked evidence to support the need for closure to address a conservation concern and was not consistent with harvest management strategies found in the Western Arctic Caribou Herd Management Plan, endorsed by the board during its 2013 meeting.

Given the current population status of the herd, there is no biological or conservation benefit for the herd from a closure. U.S. Fish and Wildlife Service Office of Subsistence Management agreed with this conclusion stating that the "request does not meet the closure criteria identified in ANILCA, Title VIII" and that a closure to hunters who are not federally-qualified subsistence users would have no conservation effect.

Instead of protecting subsistence use, the closure adversely affects all hunters. Closing a large portion of Unit 23 will consolidate non-local hunters in smaller areas and increase crowding on state-managed lands. The board did not consider the impact of a closure on people who have already made plans to hunt caribou in Unit 23 in 2016, and have made personal and financial commitments. Non-local subsistence hunters are unjustifiably restricted, including

family members of local residents who can no longer hunt caribou together as a family on federal lands

Interactions with hunters and commercial service providers since the April decision support the State's assessment that the federal land closure will be detrimental to subsistence use due to increased user conflicts, particularly on the Noatak River, and increased competition for caribou in areas that federally qualified subsistence hunters can access.

The State has submitted two letters asking the board and federal government to address this issue and is now making its third appeal by submitting this WSA request. In a letter dated May 25, 2016, Commissioner Sam Cotten requested the board reconsider the closure because it is not consistent with management strategies recommended in the Western Arctic Caribou Herd Cooperative Management Plan. The plan, which is endorsed by the federal board, was written by the Western Arctic Caribou Herd Working Group, a cooperative body of subsistence hunters from rural villages, sport hunters, conservationists, hunting guides, reindeer herders, and hunter transporters who meet regularly to reach consensus on recommendations for herd research, monitoring, regulation and allocation. Cotten said "deviating from the plan undermines the group's efforts to resolve complex management issues".

In a letter dated June 22, 2016, Commissioner Sam Cotten asked for the Secretaries of the Interior and Agriculture for their aid in reversing the federal board's April 18, 2016 decision to adopt Wildlife Special Action 16-01. The letter specifically requested a review of the recent decision by the Federal Subsistence Board to close caribou hunting on federal public lands in Game Management Unit 23 to all but federally qualified users. The letter also asked for a review of the administrative procedures that implement and retain federal closures in cases where no biological concern exists and the development of an administrative process for reconsidering Wildlife Special Actions decisions when new information is provided.

As of June 26, 2016, the State has not received a written response to either of these letters. Our expectation is that the Federal government will develop procedures to engage in meaningful discussions with the State and consult on potential federal land closures that are properly informed by science, with a mutual goal of avoiding negative impacts to resource users. Adopting this WSA request to reopen federal public lands in Unit 23 to hunters who do not qualify for federal subsistence opportunities is the first step in the development of that process.