



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau Alaska 99802-1668



PC 21
1 of 31

September 30, 2016

Glenn Haight, Executive Director
Alaska Board of Fisheries
1255 West 8th Street
P.O. Box 115526
Juneau, Alaska 99811-5526

Dear Mr. Haight:

On January 12, 2016, the Alaska Board of Fisheries (BOF) requested review of a proposal to open Alaska State waters outside of three nautical miles from the Sutwik Island Steller sea lion haulout to vessels using pot gear in the Pacific cod parallel fishery that do not have a Federal fisheries permit. The Sutwik Island Steller sea lion haulout is in the State of Alaska's (State) Chignik Management Area in the Central Gulf of Alaska (GOA).

Existing fishing closure areas in the Central GOA Pacific cod parallel fishery, including those proposed to be opened around Sutwik Island, were implemented as protection measures for the endangered western distinct population segment of Steller sea lions (SSL WDPS) in 2003 (68 FR 204, January 2, 2003; corrected 68 FR 24615, May 8, 2003). The protection measures were implemented to ensure that the groundfish fisheries, as authorized by the Fishery Management Plan for Groundfish of the GOA, and the State parallel fisheries for pollock, Pacific cod, and Atka mackerel, as authorized by the State, were not likely to jeopardize the continued existence of SSL WDPS or adversely modify its designated critical habitat. The proposal to open State waters outside of three nautical miles from the Sutwik Island haulout, to vessels using pot gear in the Pacific cod parallel fishery, would modify the action analyzed in the 2001 and subsequent 2010 Endangered Species Act (ESA) section 7 consultations. Therefore, the National Marine Fisheries Service (NMFS) conducted an ESA section 7 consultation to ensure that the GOA groundfish fisheries, as modified by the proposed change to the area closure around Sutwik Island during the Pacific cod parallel fishery, is not likely to jeopardize the continued existence of the SSL WDPS or adversely modify its designated critical habitat.

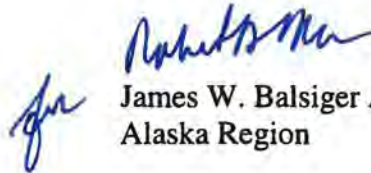
NMFS determined that the proposed action may affect, but is not likely to adversely affect, the SSL WDPS or designated SSL critical habitat. Please find the consultation documents enclosed. We appreciate the BOF coordinating with us prior to taking final action on this





proposal. We appreciate the BOF coordinating with us prior to taking final action on this proposal. If you have further questions regarding this matter, please contact Bridget Mansfield at 586-7642 or by email at bridget.mansfeild@noaa.gov.

Sincerely,



James W. Balsiger Administrator,
Alaska Region

cc: Sam Cotten, Commissioner, Alaska Department of Fish and Game
Forest Bowers, Alaska Department of Fish and Game

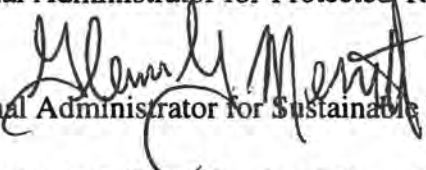
Enclosures:

Request for Section 7 Consultation on Chignik Management Area Closures
Chignik Management Area Letter of Concurrence



August 12, 2016

MEMORANDUM FOR: Jon Kurland
Assistant Regional Administrator for Protected Resources

FROM: Glenn Merrill 
Assistant Regional Administrator for Sustainable Fisheries

SUBJECT: Endangered Species Act (ESA) Section 7 Consultation on the Effects of Opening Waters in the State of Alaska (State) Chignik Management Area to Pacific Cod Fishing with Pot Gear in the State Parallel (parallel) Fishery on the Endangered Western Distinct Population Segment of Steller sea lions (SSL WDPS)

Proposed Action and Background

The State of Alaska's (State's) Board of Fisheries (BOF) proposes a change to Steller sea lion (SSL) protection measures that apply to the Pacific cod fishery within State waters (from 0 to 3 nautical miles from shore) in the Chignik Management Area. The Chignik Management Area is in the Central Gulf of Alaska. The action proposed by the BOF would open a portion of area currently closed in State waters to the harvest of Pacific cod with vessels using pot gear during the parallel fishery. The Pacific cod parallel fishery in the Gulf of Alaska (GOA) occurs in State waters adjacent to Federal waters (from 3 to 200 nm) in the GOA management area. The State manages the parallel fishery concurrently with the Federal Pacific cod fishery to allow for seamless management. All catch of Pacific cod in the parallel fishery is deducted from the Federal total allowable catch (TAC).

The State is proposing to open an area of State waters in the Central GOA for vessels using pot gear in the Pacific cod parallel fishery that do not have a Federal fisheries permit (FFP). Because closure areas in the Central GOA Pacific cod parallel fishery were implemented as SSL protection measures in 2003 (68 FR 204, January 2, 2003; corrected 68 FR 24615, May 8, 2003), I am requesting ESA section 7 consultation to ensure that the GOA Pacific cod fishery, as modified by the BOF proposal, is not likely to jeopardize the continued existence of the SSL WDPS or adversely modify its designated critical habitat.

Specifically, the BOF proposes a change to its management of the parallel Pacific cod fishery to allow the harvest of Pacific cod by vessels using pot gear and who do not have an FFP around the Sutwik Island SSL haulout (described in Table 5 at 50 CFR 679) where it overlaps State waters from 20 to 3 nm (see Figure 3).





The proposed action would not modify restrictions in State waters within 3 nm of the Sutwik Island haulout, or in that portion of the 20 nm closure area around haulout that occurs in Federal waters. The proposed action would not modify restrictions that apply to vessels with an FFP that harvest Pacific cod in the parallel Pacific cod fishery within the 20 nm closure area around Sutwik Island. The proposed action would not modify management of hook-and-line, jig, or trawl Pacific fisheries in parallel waters within the action area. Under status quo management, the State permits vessels to use jig gear to harvest Pacific cod in the parallel fishery around Sutwik Island without restriction. Under status quo management, the State prohibits the use of hook-and-line and trawl gear for the harvest of Pacific cod in the parallel fishery within State waters around Sutwik Island.

ESA consultations and Steller sea lion protection measures

The ESA consultation history for effects of the GOA Pacific cod fisheries on the SSL WDPS is extensive. Most recently, NMFS issued a biological opinion (BiOp) on the authorization of the Alaska groundfish fisheries under the FMP, including the GOA Pacific cod pot fishery, on November 24, 2010 (2010 FMP BiOp). The 2010 FMP BiOp concluded that the groundfish fisheries, as authorized, were likely to jeopardize the continued existence of the SSL WDPS and adversely modify designated critical habitat.

The GOA Pacific cod jig and pot fisheries were not implicated in the jeopardy and adverse modification finding. The jeopardy and adverse modification finding in the 2010 FMP BiOp was based on potential connections between the continued decline of SSL WDPS populations in the western and central Aleutian Islands and the Aleutian Islands Atka mackerel and Pacific cod fisheries. NMFS subsequently modified the SSL protection measures in the Aleutian Islands Atka mackerel and Pacific cod fisheries in 2011 (75 FR 77535, December 13, 2010; corrected 75 FR 81921, December 29, 2010) and 2015 (79 FR 70286, November 25, 2014) to ensure the fisheries were not likely to jeopardize the continued existence of the WDPS or adversely modify its designated critical habitat.

NMFS has implemented protection measures to reduce potential competition for prey between the GOA Pacific cod fishery and SSLs since 1990. No-transit areas were instituted in 1990, trawl closures in 1992, and Pacific cod pot fishery measures in 2001. The following section summarizes SSL protection measures in the GOA Pacific cod fishery, analyzed in the October 19, 2001 BiOp on the Authorization of BSAI and GOA Groundfish Fisheries, 2010 FMP BiOp, proposed (67 FR 56692, September 4, 2002) and final (68 FR 204, January 2, 2003) rules:

Harvest Control Rule

To protect prey abundance for the SSL WDPS, the harvest control rule stipulates the Pacific cod acceptable biological catch be reduced when Pacific cod spawning biomass is estimated to be less than 40 percent of the unfished biomass. Pacific cod fishing would be prohibited in the event the estimated spawning biomass is below 20 percent of the projected unfished biomass.



Area Closure

Numerous areas are closed to Pacific cod harvest in the GOA to protect prey availability in important sea lion foraging areas. Table 1 provides Pacific cod fishery restrictions in the GOA for specific rookeries and haulouts.¹

¹ See Table 5 to 50 CFR 679 for a list of all rookery and haul-out sites, by latitude and longitude, throughout the GOA and Bering Sea/Aleutian Islands and associated closures for all gear types. See Table 12 to 50 CFR 679 for a list of 0 to 3 nm “no groundfish fishing/no transit” locations.



Table 1. Area closures in the GOA Pacific cod fishery

Site name	No Fishing Zone for Trawl Gear (nm radius)	No Fishing Zone for Hook and Line Gear (nm radius)	No Fishing Zone for Pot Gear (nm radius)
Chuginadak ²	20	10	20
Samalga	20	10	20
Ogchul I.	20	10	20
Polivnoi Rock ³	20	10	20
Emerald I. ^{4,2}	20	10	20
Unalaska/Cape Izigan ²	20	10	20
Unalaska I./Cape Sedanka ²	20	10	20
Old Man Rocks ²	20	10	20
Akutan I./Cape Morgan ²	20	10	20
Rootok ²	20	10	20
Tanginak I. ²	20	10	20
Tigalda/Rocks NE ²	20	10	20
Aiktak ²	20	10	20
Ugamak I. ²	20	10	20
Round ²	20	10	20
Bird I.	10	-	-
Caton I.	3	3	3
South Rocks	10	-	-
Clubbing Rocks S	10	3	3
Clubbing Rocks N	10	3	3
Pinnacle Rock	3	3	3
Sushilnoi Rocks	10	-	-
Olga Rocks	10	-	-
Jude I.	20	-	-
Sea Lion Rocks (Shumigans)	3	3	3
Nagai I./Mountain Pt.	3	3	3
The Whaleback	3	3	3
Chernabura I.	20	3	3
Castle Rock	3	3	3
Atkins I.	20	3	3
Spitz I.	3	3	3
Mitrofanina	3	3	3
Kak	20	20	20
Lighthouse Rocks	20	20	20
Sutwik I.	20	20	20
Chowiet I.	20	20	20
Nagai Rocks	20	20	20
Chirikof I.	20	20	20
Puale Bay	10	-	-
Kodiak/Cape Ikolik	3	3	3
Takli I.	10	-	-
Cape Kuliak	10	-	-

² Trawl closure around this site is limited to waters east of 170° 0'00" W longitude

³ Restriction area includes only waters of the Gulf of Alaska area.

⁴ See 50 CFR 679.22(a)(7)(i)(C) for exemptions for catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear between Bishop Point and Emerald I. closure areas.



Site name	No Fishing Zone for Trawl Gear (nm radius)	No Fishing Zone for Hook and Line Gear (nm radius)	No Fishing Zone for Pot Gear (nm radius)
Cape Gull	10	-	-
Kodiak/Cape Sitkinak	10	-	-
Shakun Rock	10	-	-
Twoheaded I.	10	-	-
Cape Douglas (Shaw I.)	10	-	-
Kodiak/Cape Barnabas	3	3	3
Kodiak/Gull Pt	10, 3	-	-
Latax Rocks	10	-	-
Ushagat I./SW	10	-	-
Ugak I. ⁵	10, 3	-	-
Sea Otter I.	10	-	-
Long I.	10	-	-
Sud I.	10	-	-
Kodiak/Cape Chiniak	10	-	-
Sugarloaf I.	20	10	10
Sea Lion Rocks (Marmot)	10	-	-
Marmot I. ⁶	15, 20	-	-
Nagahut Rocks	10	-	-
Perl	10	-	-
Gore Pt	10	-	-
Outer (Pye) I.	20	10	10
Steep Pt.	10	-	-
Seal Rocks (Kenai)	10	-	-
Chiswell Islands	10	-	-
Rugged I.	10	-	-
Pt Elrington ^{7, 8}	20	-	-
Perry I. ⁶	-	-	-
The Needle ⁶	-	-	-
Pt Eleanor ⁶	-	-	-
Wooded I. (Fish I.)	20	3	3
Glacier I. ⁶	-	-	-
Seal Rocks (Cordova) ⁷	20	3	3
Cape Hinchinbrook ⁷	20	-	-
Middleton I.	10	-	-
Hook Pt. ⁷	20	-	-
Cape St Elias	20	-	-

⁵ The trawl closure between 0 and 10 nm is effective from January 20 through June 10. Trawl closure between 0 nm and 3 nm is effective September 1 through November 1.

⁶ The trawl closure between 0 and 15 nm is effective from January 20 through June 10. Trawl closure between 0 nm and 20 nm is effective September 1 through November 1.

⁷ Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

⁸ The 20 nm closure around this site is effective only in waters outside the State waters of Prince William Sound.

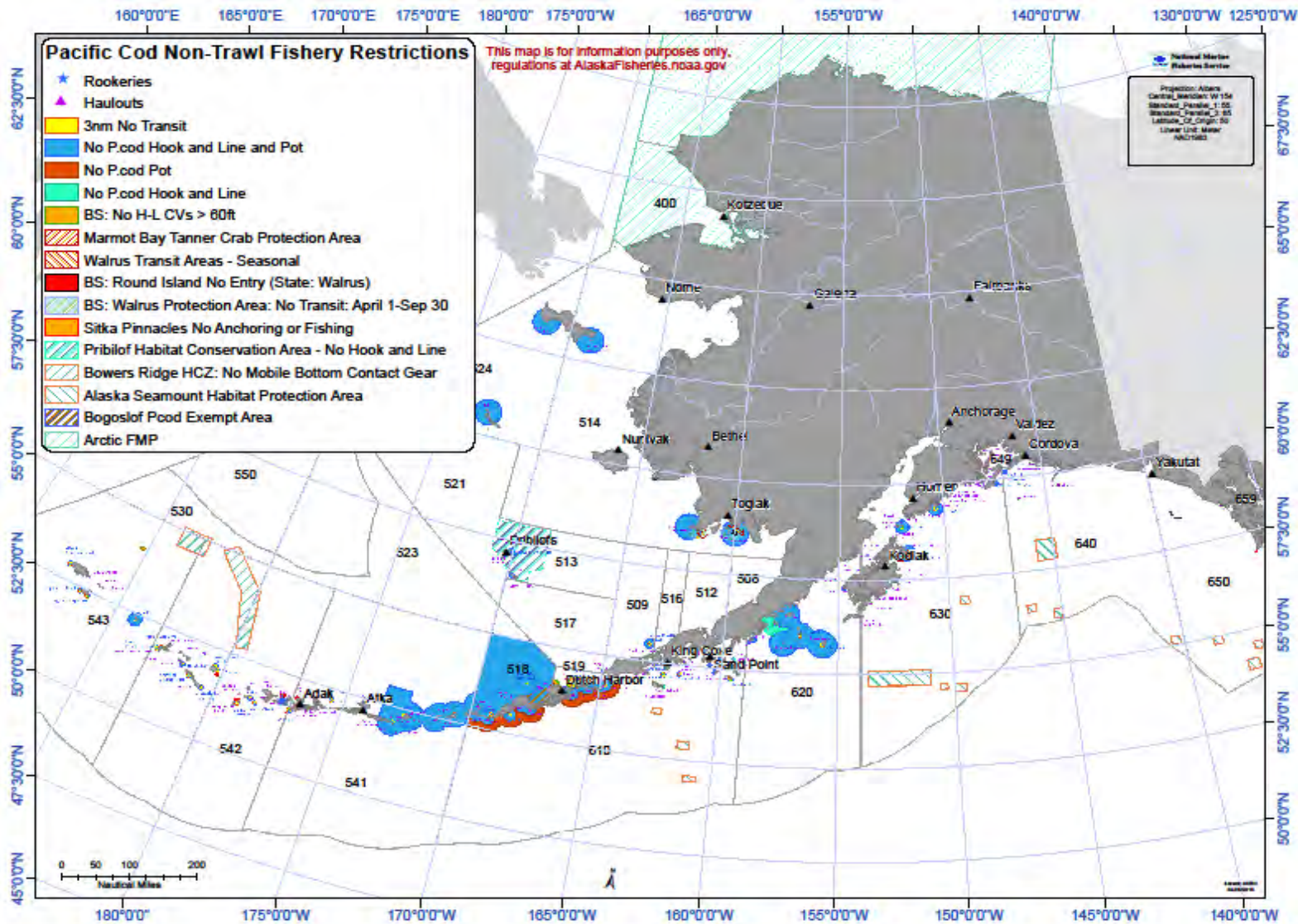


Figure 1. Federal and parallel Pacific cod non-trawl (pot and hook-and-line) fishery restrictions



Vessel Monitoring

Any vessel participating in the GOA Federal or parallel Pacific cod pot fishery is required to have an operable vessel monitoring system (VMS) onboard when the directed Pacific cod pot fishery is open to ensure compliance with the SSL protection area restrictions. NMFS does not require VMS on vessels using jig gear due to the fact they generally are not restricted except within 3 nm of rookeries (no fishing zones in Table 21 to 50 CFR part 679) and in the Seguam foraging and Bogoslof areas (areas outside of the Central GOA). Vessels using jig gear are exempt from most of the closure zones beyond 3 nm of rookeries due to their slow rate of extraction and small number of vessels which prosecute these fisheries. (See 67 FR 956, January 8, 2002).

Fishing Seasons

The annual GOA Pacific cod fishery in the Western and Central regulatory areas is divided into two seasons (50 CFR 679.23(d)(3)):

- A season - January 1 through June 10 for hook-and-line, pot, and jig gear;
January 20 through June 10 for trawl gear
- B season - September 1 through December 31 for hook-and-line and pot gear;
June 10 through December 31 for jig gear;
September 1 through November 1 for trawl gear

The Eastern GOA has no seasonal apportionments.

Seasonal Allocations

To disperse Pacific cod harvests over time and reduce the likelihood of localized depletions, the catch allocations for the GOA Pacific cod fishery are divided into two seasons:

- A season - 60 percent
- B season - 40 percent

All directed fishing allowance and incidental catch of Pacific cod that may occur in other groundfish fisheries before June 10 are managed such that total harvest in the A season is not more than 60 percent of the annual TAC.

Description of the Gulf of Alaska Pacific Cod Pot Fishery

Thorough descriptions of the Federal and parallel GOA Pacific cod fishery are provided in the 2010 FMP BiOp and the final rule for Amendment 83 (76 FR 74670, December 1, 2011) to the GOA FMP. They are incorporated here by reference. Amendment 83, implemented in 2012, changed the Western and Central GOA Pacific cod TAC allocation from an inshore/offshore allocation to an allocation among harvest sectors (catcher vessels and catcher/processors using trawl, pot, hook-and-line, and jig gear) (76 FR 74670, December 1, 2011). The sector allocations under Amendment 83 further dispersed the GOA Pacific cod harvest in time relative to the action analyzed in the 2010 FMP BiOp.

Amendment 83 further stabilized the GOA Pacific cod fishery by 1) prohibiting federally permitted vessels without properly endorsed licenses from participating in the parallel Pacific



cod fishery and 2) limiting the ability for vessels to reactivate a surrendered FFP to one time in three years. Before Amendment 83, vessels could surrender their FFP and participate in the parallel Pacific cod fishery without being subject to Federal observer coverage, VMS, or recordkeeping and reporting requirements and then have their FFP reactivated an unlimited number of times to re-enter Federal fisheries. Amendment 83 has improved the temporal dispersion of the GOA Pacific cod harvest and the data available for managing the fishery and enforcing SSL protection closure areas.

While the directed fishery for Pacific cod in Federal waters (3 nm to 200 nm) are open, directed fisheries for Pacific cod in State waters, referred to as parallel fisheries, are prosecuted under virtually the same rules as the Federal fisheries, with catch accrued against the Federal TAC. The State also manages separate Guideline Harvest Level (GHL) fisheries for Pacific cod in State waters. Catch from the State GHL fisheries is not deducted from the Federal TAC. The State GHL fisheries are opened when Federal/parallel fisheries are closed. The State GHL fisheries are not allowed to harvest more than 25 percent of the combined acceptable biological catch limits of Western, Central and Eastern GOA Pacific cod (76 FR 11111, March 1, 2011). The proposed action would not modify any aspect of the State GHL fishery.

Proposed Change to the Gulf of Alaska Pacific Cod Pot Fishery

The proposed action would modify the State's management of the GOA Pacific cod pot parallel fishery relative to the action analyzed in the 2010 FMP BiOp. The proposed action would allow the State to authorize the use of pot gear in State waters more than 3 nm from the Sutwik Island haulout, where it overlaps State waters (Figure 3). This would result in additional State waters being open during the GOA Pacific cod pot parallel fishery. The State would undertake this action under its regulations that apply only to State waters. No change would be required or made to Federal regulations under the proposed action. The proposed action would not change the GOA Pacific cod TACs or seasonal TAC apportionments.

Action Area

The action area is the GOA management area (Figure 2). This action would solely address management of the Pacific cod pot parallel fishery in a portion of State waters within the State Chignik Management Area, shoreward of GOA Federal reporting area 620, and west of 156° W longitude.

The area affected is within the 20 nm area of SSL critical habitat around the Sutwik Island haulout, which is closed to Pacific cod fishing with pot gear in Federal and parallel fisheries to conserve prey for SSLs (see 68 FR 204, January 2, 2003). The 20 nm closure area around Sutwik Island that does not overlap State waters would not be affected (Figure 3). The 3 nm area closures in State waters around the Sutwik Island and Kak Island haulouts would remain unchanged. Three additional 20 nm Pacific cod pot fishery closure areas of SSL WDPS critical habitat around Lighthouse Rocks, Chowiet Island, and Chirikof Island are adjacent to, but are not included in, the area affected by the proposed action.

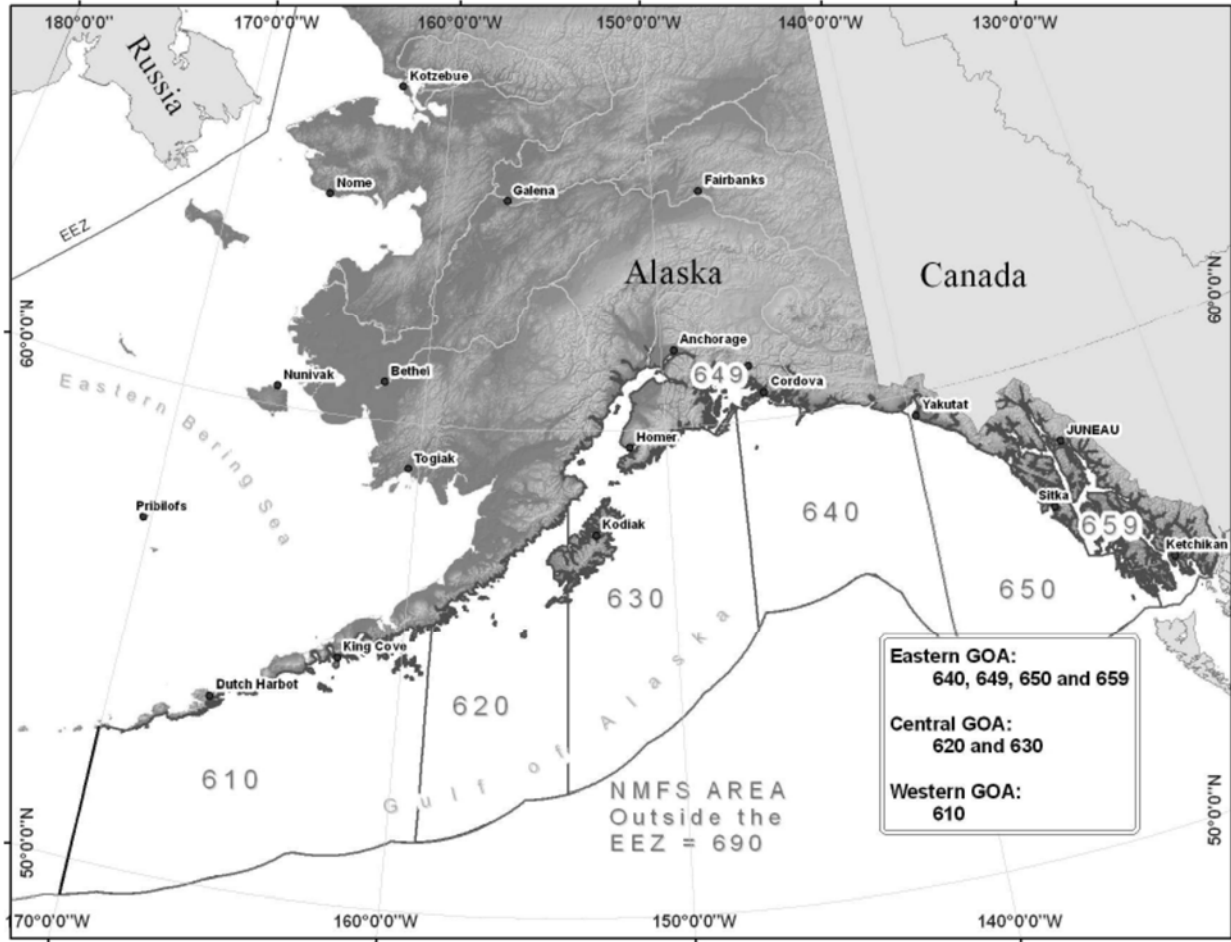


Figure 2. Gulf of Alaska Federal reporting areas

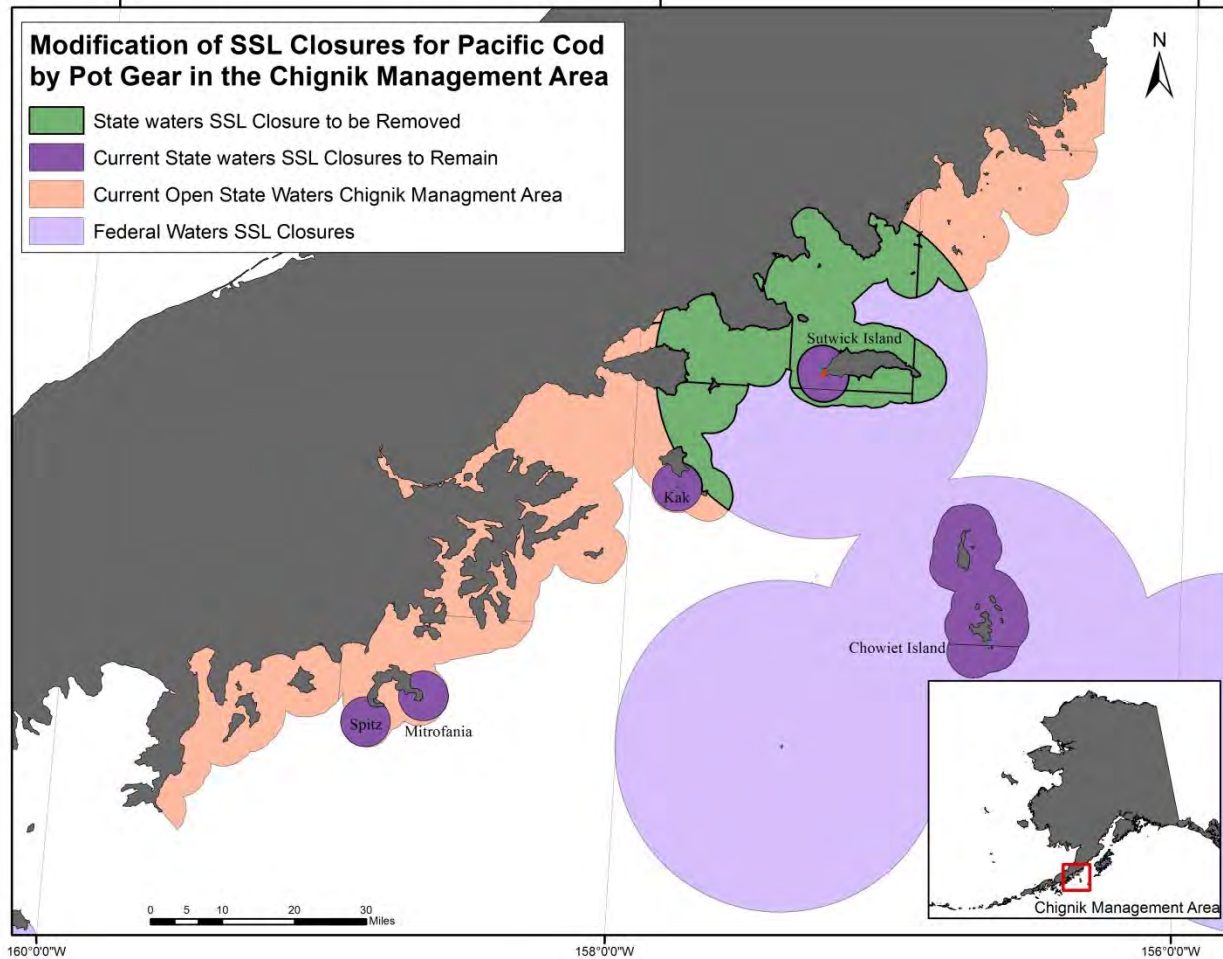


Figure 3. Proposed modification of SSL protection measures for the parallel Pacific cod fishery in the Chignik Management Area (Central GOA)

Effects of the Proposed Action

The area that would be opened under the proposed action is currently closed to Pacific cod fishing with pot gear during the parallel fishery to conserve prey in nearshore habitats that appear to be important for SSL foraging. Here, we analyze whether, based on the best available information, the proposed action is likely to adversely affect the SSL WDPS.

For purposes of the ESA, “effects of the action” means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is “not likely to adversely affect” listed species or critical habitat is that all of the effects of the action are expected to be insignificant, discountable, or completely beneficial. Insignificant effects relate to the size of the impact and are those that one would not be able to meaningfully measure, detect, or evaluate, and should never reach the scale where take occurs. Discountable effects are those that are extremely unlikely to occur. Beneficial effects are contemporaneous positive effects without any adverse effects to the species.



Current Harvest

Current harvest of Pacific cod by pot vessels in the proposed area is limited due to its remoteness. Based on recent effort (2013 through 2015) in the parallel fishery, the nearest active fishing grounds to the area proposed to be opened are about 50 nm to the west. Vessels without FFPs that fish in those adjacent areas are relatively small (generally less than 60 ft length overall (LOA)) and deliver to western GOA processors. The two nearest ports to the proposed action area that receive Pacific cod are Sand Point and Kodiak, approximately 125 nm west and 350 nm east from Sutwik Island, respectively. Transit time for delivery trips to those ports from the area proposed to be opened is between 24 and 48 hours. Because processors require Pacific cod to be delivered no more than three days from harvest, the extended delivery time results in actual fishing operations of only 1-2 days, thereby limiting potential catch. Consequently, most of the non-FFP Pacific cod pot vessels that deliver to Kodiak or Sand Point processors do not fish in the Central GOA west of 156° W longitude.

NMFS assumes that any Pacific cod harvest in the area proposed to be opened would be harvested by vessels that do not have an FFP and that have participated in the parallel fishery in the Central GOA west of 156° W longitude with pot gear since 2013. Harvest records from 2013 through 2016 show that four vessels meet those criteria, and only one of those vessels fished more than one year from 2013 through 2016.

The Pacific cod harvest by non-FFP pot vessels from 2013 through 2015 is provided below in Table 1 as a baseline harvest level from which to determine and evaluate the potential change in harvest under the proposed action. For the period from 2013 through 2015 the maximum number of trips per year by any non-FFP vessel in parallel Pacific cod pot fishery the Central GOA west of 156° W longitude was five, with an average harvest of 25 metric tons (mt or tons) of Pacific cod per trip. The total harvest of Pacific cod per year for all non-FFP pot vessels in the parallel fishery during that period and in the action area was less than 300 tons per year.

Six additional non-FFP vessels participated in the parallel fishery in the Central GOA west of 156° W longitude with pot gear prior to 2013. However, these vessels have not fished in the action area since 2011. As explained below, the sector split implemented under Amendment 83 in 2012 changed the participation and temporal extent of the parallel Pacific cod pot fishery. Therefore, this analysis is limited to the years after 2012 when the pot cod sector was allocated its own TAC. Prior to the sector split, all Pacific cod pot and hook-and-line vessels competed in a race to harvest the shared GOA Pacific cod TAC before the trawl "A" season began on January 20. Before Amendment 83 was implemented, the trawl harvest opening resulted in the Pacific cod TAC being taken quickly, closing the area to all gear for Pacific cod.

Since the implementation of Amendment 83, the Pacific cod pot harvest has been prosecuted at a more moderate and consistent pace. Amendment 83 also prohibited vessels without properly endorsed LLP licenses from participating in the parallel Pacific cod fishery, and limited the ability for vessels to reactivate a surrendered FFP to one time in three years. The number of vessels that fish for Pacific cod in State waters during the parallel fishery has declined since the implementation of Amendment 83 and the amount of observer coverage and vessel location monitoring in the parallel fishery has increased.



Harvest under the State’s GHL fisheries opens after the closure of the parallel fishery. Harvest may continue through August. Vessels participating in the GHL fisheries are allowed to fish in the SSL WDPS closed areas, with the exception of the 3 nm no-transit zones. For comparative purposes, harvest in the GHL Pacific cod pot fishery in the Chignik area from 2013 through 2015 is shown in Table 2. Vessels that fish in the GHL Pacific cod fishery in this area represent a fleet that does not fish in the parallel fishery.

Table 2. Central GOA Pacific cod pot harvest: west of 156° W longitude (2013-2015)

Vessel Permit Type	Mgt Area	Fishery	Year	Harvest (t)	Number of vessels	% Harvest Taken in SSL No-Fishing Zones***
Non-FFP	Chignik	Parallel	2013	150-300*	1-4*	0
			2014	150-300*	1-4*	0
			2015	150-300*	1-4*	0
	Chignik	GHL	2013	4,356	19	91
			2014	4,575	12	90
			2015	5,124	17	82
FFP and Non-FFP**	Chignik	Parallel	2013	197	3	0
			2014	864	4	0
			2015	527	6	0

*For reasons of confidentiality, the exact harvest and number of vessels cannot be reported.

** Includes the non-FFP vessels in the 2013-2015 Chignik parallel fishery reported in the rows above.

*** GHL fisheries are not restricted from fishing in areas closed to other fishing for SSL protection.

Pacific cod pot and non-pot harvests (2013 through 2015) for the Central GOA and the Central GOA west of 156° W longitude are presented in Table 3. In Federal waters for those years, the average Pacific cod harvest by non-pot gear is greater than the average pot gear harvest. However, in the State waters parallel and GHL fisheries, Pacific cod harvest by non-pot gear is lower than that of pot gear.

Table 3. Central GOA Pacific cod harvest: non-pot vs pot gear: 3-year avg (2013-2015)

	Central GOA Harvest (t) - All Areas			Central GOA Harvest (t) – West of 156° W longitude		
	Non-Pot *	Pot	Total	Non-Pot*	Pot	Total
Federal and State waters (excluding GHL)	25,318	10,757	26,393	3,709	1,213	4,922
FFP and Non-FFP Parallel Fishery Only	2,667	2,921	5,588	59	529***	588
Non-FFP Only	252**	1,027	1,279	3**	300***	303

* Non- pot gear comprises hook-and-line, jig, non-pelagic trawl, and pelagic trawl.

** Non-pot gear for “Non-FFP Only” comprises hook-and-line and jig.

*** Upper estimate of non-FFP harvest in the Chignik parallel fishery.



Effects of the Expected Temporal Distribution of Catch on the SSL WDPS

NMFS expects the overall temporal distribution of the GOA Pacific cod pot fishery to be unchanged relative to the status quo. No net change under the proposed action is expected for the total duration of the GOA Federal and parallel fisheries for Pacific cod with pot gear. As noted above, the fishery is broken into two seasons with approximately 5-6 total weeks of active harvest. The “A” season allocation is generally harvested within 5-6 weeks of the January 1 start for hook and line, pot, and jig gear. The “B” season allocation is not always achieved. No change to the seasonal TAC would occur under this proposal.

Effects of the Expected Spatial Distribution of Catch on the SSL WDPS

The proposed action would open 651 nm² (green shaded area in Figure 3), or 65.1%, of the total 1,000 nm² area closed for SSL WDPS protection in the state waters Chignik Management Area to non-FFP vessels fishing for Pacific cod with pot gear (light and dark purple and green shaded areas in Figure 3). For comparison, the 651 nm² affected by the proposed action represents 4.6% of the total 14,118 nm² closed to Pacific cod fishing with pot gear in the GOA (see blue areas in Figure 1) and 1.6% of the total SSL critical habitat area (41,590 nm²) in the BSAI and GOA. The proposed action would not modify any other SSL area closures in Table 1.

The proposed action may result in slight changes to the spatial distribution of Pacific cod harvest. The proposed action would allow only vessels without an FFP to fish in the area proposed to be open during the Pacific cod pot parallel fishery. The closure would remain in effect for vessels operating in the parallel fishery while holding an FFP, because those vessels must comply with all Federal regulations (50 CFR 679.22 (b)(2)(iii)) and this action does not propose a change to the Federal regulations. As noted above, this action is expected to affect approximately four non-FFP pot vessels that harvested Pacific cod in the Central GOA parallel fishery west of 156° W longitude from 2013 through 2015.

If all four vessels shift their parallel Pacific cod pot fishing effort into the proposed open area, NMFS estimates that a maximum of 1,000 t (5 trips * 4 vessels * 25 t per trip) may be harvested in the proposed open area based on the 2013 to 2015 data. However, the 2013 through 2015 harvest of 150-300 t shown in Table 1 represents a more realistic expected harvest estimate for the proposed opened area as it incorporates more realistic operating logistics. The 300 t estimate also may be high, since these vessels typically fish close to the Western GOA line to conserve fuel costs. Fishing in the proposed opened area would require vessels to incur longer transit times and higher fuel costs, possibly reducing the number or duration of trips to this area.

A further increase over the estimated harvest of 300 t is possible under a provision in Amendment 83 which allows a floating processor to operate in the area under a Community Quota Exemption (CQE). If a floating processor were to exercise this option due to the proposed action, it may attract additional non-FFP vessels to fish in the area. However, the CQE floating processor has a regulatory processing limit of 1,000 t per year. At this time, no operators have expressed interest in operating a CQE floating processor.

Harvest levels in the State GHL Pacific cod pot fishery in the Chignik Management Area are expected to be similar to those reported in Table 1. That fishery is prosecuted during a different time period from the Federal and parallel Pacific cod pot fisheries, and GHL vessels are not required to abide by the SSL protection measures. Thus, vessels in the GHL fishery are not



affected by the proposed action. Likewise, Pacific cod harvest in Federal waters is expected to be similar to harvest for the 2013 through 2015 period, because the proposed action would not affect those vessels.

In summary, NMFS estimates that implementation of the proposed action would likely result in approximately four vessels harvesting no more than 300 t of Pacific cod per year in the newly opened area in the parallel Pacific cod fishery over 5-6 weeks in January and February. The net effect of the proposed action is an estimated shift in the spatial distribution of approximately 0.8% of the combined, annual Federal and parallel Pacific cod harvest in the Central GOA.

Effect of the Action on SSL WDPS

There have been no reports in the List of Fisheries of direct, incidental or intentional takes of SSLs in the Pacific cod pot fishery off Alaska. Therefore, NMFS concludes that opening the proposed area to fishing for Pacific cod with pot gear during the parallel fishery is not likely to result in any direct incidental takes of SSLs.

Two SSL WDPS haulouts are in the area that would be opened under the proposed action at Sutwik and Kak Islands. SSL counts from the most recent surveys (NMFS 2015) at the Sutwik and Kak Island locations are summarized in Table 4.

Table 4. SSL counts at Sutwik and Kak Island haulouts 2013 through 2015

YEAR	2013		2014		2015	
	Sutwik	Kak	Sutwik	Kak	Sutwik	Kak
NON-PUPS	298	210	Not Surveyed		262	194
PUPS	19	0	Not Surveyed		36	0

The annual rate of change in SSL WDPS abundance in the Central GOA increased from 2000 through 2012 (NMFS 2014) and continued through 2015 (NMFS 2015) as seen in Table 5, although not at the higher rates of the adjacent Western and Eastern GOA areas. The reasons for those differences are presently unknown.

Table 5. SSL WDPS Annual Rates of Change from 2000 (% yr⁻¹)

YEAR/ AREA	2013			2014			2015		
	WGOA	CGOA	EGOA	WGOA	CGOA	EGOA	WGOA	CGOA	EGOA
NON-PUPS	3.60	1.97	4.98	4.09	2.61	5.22	3.95	2.68	5.07
PUPS	3.58	1.93	4.34	3.27	2.14	4.44	3.28	2.82	4.31

Through this analysis NMFS has shown that a small number of non-FFP vessels may harvest approximately 300 t of Pacific cod each year from January through February in the area proposed to be opened to pot gear in the parallel fishery. Under the proposed action, all vessels, whether with an FFP or not, would be prohibited from fishing for Pacific cod with pot gear



within 3 nm from the Sutwik Island haulout. All vessels with an FFP would be prohibited from fishing for Pacific cod with pot gear within 20 nm from the Sutwik Island haulout during the Federal/parallel Pacific cod pot fishery.

NMFS projects the potential for a shift in the spatial distribution of less than 1 percent (0.8%) of the Central GOA Pacific cod harvest under the proposed action with no change to the overall Pacific cod TAC or temporal dispersion of the harvest.

The 2010 BiOp discusses the impacts of prey availability to SSL that may arise from competition between fisheries and SSL and states, “Competition occurs if the fisheries reduce the availability of prey to the extent that sea lion condition, growth, reproduction, or survival is diminished, and population recovery is impeded.” Prey encountered by an individual foraging SSL in part determine its net gain in energy and nutrients that affects its condition, growth, reproduction, and survival. Connors and Munro (2008) have shown that the winter Pacific cod trawl fishery in their Bering Sea study area does not result in localized depletion of Pacific cod at the scale of the fishery removal. Thus, although the fishing removals may have an immediate localized effect on fish abundance, the effect may be obscured by characteristic rapid fish movement (less than one week) over a geographic scale greater than the fishery removal. Qualitative inference from the study area to other areas, including the area proposed to be opened under this action, requires consideration of similarities in fishing pressure and Pacific cod behavior and movement. Although additional information is needed on the size and duration of prey density decreases that impact SSL foraging success on a local scale, it is a reasonable assumption based on the findings of Connors and Munro (2008) that the slow pace and very low level of expected harvest under this action would not result in localized depletion of Pacific cod.

Because the effects of this action are limited to a potential spatial redistribution of less than 1 percent of the Central GOA Pacific cod harvest by a small number of non-FFP vessels, NMFS concludes that the effects of the proposed action on the SSL WDPS would not be able to be meaningfully measured, detected, or evaluated and, therefore, would be insignificant. This conclusion is further supported for the following reasons:

- Amendment 83 to the GOA FMP resulted in further temporal distribution of harvest and reduced the number of participants fishing in State waters during the parallel Pacific cod fishery relative to the regime that existed when NMFS implemented the SSL protection measures, including the 20 nm closure to pot gear around Sutwik Island.
- SSL abundance at Sutwik Island increased from 2002 through 2015 concurrent with GHF Pacific cod harvests inside SSL critical habitat west of 156° W (Table 2). The GHF harvests inside SSL critical habitat are more than 10 times the harvest expected to occur in State waters within the 3 nm to 20 nm closure around the Sutwik Island haulout under the proposed action.
- Localized depletion of Pacific cod is not expected to occur as a result of the action due to the slow pace and low level of harvest by a limited number of vessels using pot gear.
- NMFS implemented area closures for Pacific cod fishing with pot gear at 39 of the 78 SSL rookery and haulout sites in the GOA (Table 1). Greater area closures may not



correspond with greater SSL population increases. A cursory examination of a Central GOA site with no area closures for any gear type (e.g., Caton Island) shows an increasing abundance of SSLs whereas only one animal has been counted over the last 12 years at a site with 20 nm closures for all gear types (e.g., Samalga) (Fritz et al. 2016). NMFS has not conducted a robust analysis of the efficacy of the closure areas on SSL abundance and notes that the proposed action would modify one of the 39 area closures in the GOA for only a few vessels fishing in the parallel Pacific cod pot fishery (Table 6).

Table 6. Count of GOA rookery and haulout sites with area closures (20 nm, 10 nm, 3 nm, and none) for Pacific cod fishing with pot gear

SSL SITES - Closure Area	STATUS QUO – Number of SSL Sites	PROPOSED ACTION – Number of SSL Sites (FFP/non-FFP)
20 nm	21	21/20
10 nm	2	2
3 nm	16	16/17
None	39	39

Determination

Because the proposed action is likely to result in insignificant effects on the GOA Pacific cod fishery and, therefore, in insignificant effects on the SSL WDPS and designated critical habitat, we conclude that the proposed action is not likely to adversely affect the SSL WDPS. We request your concurrence with this determination.



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http://www.afsc.noaa.gov/NMML/PDF/SSL_Aerial_Survey_2015.pdf



September 23, 2016

MEMORANDUM FOR: Glenn Merrill
Administrator for Sustainable Fisheries

FROM: Jon Kurland *AJ for JK*
Assistant Regional Administrator for Protected Resources

SUBJECT: Chignik Management Area Letter of Concurrence,
NMFS #AKR-2016-9586

The National Marine Fisheries Service (NMFS) Alaska Region Protected Resources Division (PRD) has completed informal consultation under section 7(a)(2) of the Endangered Species Act (ESA) regarding the proposed change to Steller sea lion (*Eumetopias jubatus*) protective measures that apply to the Pacific cod fishery within Alaska State waters (from 0 to 3 nautical miles from shore) in the Chignik Management Area. The NMFS Sustainable Fisheries Division (SFD) requested, on behalf of the State of Alaska's Board of Fisheries (BOF), written concurrence that the proposed action may affect, but is not likely to adversely affect, the endangered western Distinct Population Segment (WDPS) of Steller sea lion (SSL) or Steller sea lion critical habitat. Based on our analysis of the information you provided to us, and additional literature cited below, NMFS PRD concurs with your determination. A complete administrative record of this consultation is on file in this office.

Consultation History

The ESA consultation history for effects of the Gulf of Alaska (GOA) Pacific cod fisheries on the WDPS of SSL is extensive. Most recently, NMFS issued a biological opinion (Opinion) on the authorization of the Alaska groundfish fisheries under the Fisheries Management Plan (FMP), including the GOA Pacific cod pot fishery, on November 24, 2010 (NMFS 2010). The 2010 FMP Opinion concluded that the groundfish fisheries, as authorized, were likely to jeopardize the continued existence of the WDPS SSL and adversely modify designated critical habitat.

The GOA Pacific cod jig and pot fisheries were not implicated in the jeopardy and adverse modification finding. The jeopardy and adverse modification finding in the 2010 FMP Opinion was based on potential connections between the continued decline of WDPS SSL populations in the western and central Aleutian Islands and the Aleutian Islands Atka mackerel and Pacific cod





fisheries. NMFS subsequently modified the SSL protection measures in the Aleutian Islands Atka mackerel and Pacific cod fisheries in 2011 (75 FR 77535, December 13, 2010; corrected 75 FR 81921, December 29, 2010) and 2015 (79 FR 70286, November 25, 2014) to ensure the fisheries were not likely to jeopardize the continued existence of the WDPS or adversely modify its designated critical habitat.

PRD received your request for consultation on proposed changes to SSL protective measures near Sutwick Island on August 12, 2016. PRD requested additional information about the SSL haul outs by email on August 31, 2016, which SFD provided on August 31, 2016. Finally, PRD requested additional information about Pacific cod catch allocation by email on September 19, 2016, which SFD provided on September 19, 2016.

Description of the Proposed Action

The State of Alaska's BOF proposes a change to SSL protection measures that apply to the Pacific cod fishery in State waters (from 0 to 3 nautical miles from shore) in the Chignik Management Area, located in the Central GOA. The proposed action would open a portion of a currently closed area in State waters to the harvest of Pacific cod to vessels using pot gear during the parallel fishery. The Pacific cod parallel fishery in the GOA occurs in State waters adjacent to Federal waters (from 3 to 200 nm) in the Central GOA management area. The State manages the parallel fishery concurrently with the Federal Pacific cod fishery to allow for seamless management. All catch of Pacific cod in the parallel fishery is deducted from the Federal total allowable catch (TAC).

The State is proposing to open an area of State waters in the Central GOA for vessels using pot gear in the Pacific cod parallel fishery that do not have a Federal Fisheries Permit (FFP). Because closure areas in the Central GOA Pacific cod parallel fishery were implemented as SSL protection measures in 2003 (68 FR 204, January 2, 2003; corrected 68 FR 24615, May 8, 2003), SFD is requesting written concurrence that the proposed action (as modified by the BOF proposal) may affect, but is not likely to adversely affect, WDPS SSL or its designated critical habitat.

The proposed action would not modify restrictions in State waters within 3 nm of the Sutwick Island haulout, or in that portion of the 20 nm closure area around the haulout that occurs in Federal waters. Nor would it modify restrictions that apply to vessels with an FFP that harvest Pacific cod in the parallel Pacific cod fishery within the 20 nm closure area around Sutwick Island. Nor would it modify management of hook-and-line, jig, or trawl Pacific fisheries in parallel waters within the action area. Under the proposed action, State permitted vessels that use jig gear to harvest Pacific cod in the parallel fishery around Sutwick Island would continue harvest without restriction. In addition, the use of hook-and-line and trawl gear for the harvest of Pacific cod in the parallel fishery within State waters around Sutwick Island would continue to be prohibited.



Action Area

The action area is defined in the ESA regulations (50 CFR 402.02) as the area within which all direct and indirect effects of the project will occur. NMFS defines the action area for this project as the Central GOA management area (Figure 1; Central GOA is delineated by reporting areas 620 and 630). While the proposed action solely addresses management of the Pacific cod pot parallel fishery in a portion of State waters within the State Chignik Management Area, shoreward of GOA Federal reporting area 620, and west of 156° W longitude (Figure 2), the fishing that would occur in the newly opened areas would be deducted from the Federal TAC, creating an indirect effect of a lower available TAC for other areas in the Central GOA reporting areas. The lower TAC in other areas could mean less fishing in these areas and would have no negative impacts on (and perhaps could even be beneficial to) SLLs in these areas of the Central GOA management area.

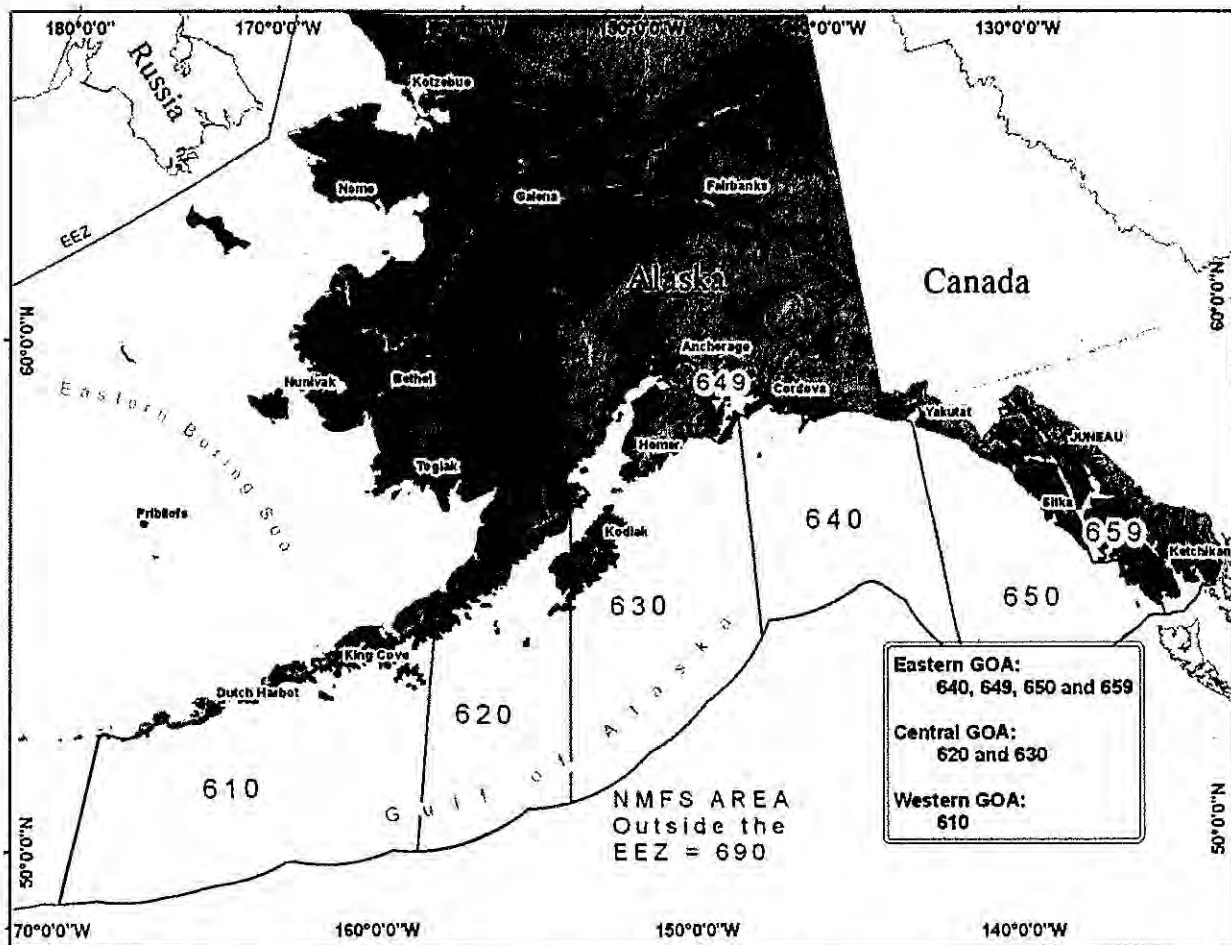


Figure 1. Gulf of Alaska Federal reporting areas. The action area is the Central Gulf of Alaska, comprised of management area 620 and 630 (NMFS 2016a).

The area directly affected by the proposed action is in the 20 nm area of SSL critical habitat around the Sutwik Island haulout that overlaps with State waters (see Figure 2; green shaded

area), which was previously closed to Pacific cod fishing with pot gear in Federal and parallel fisheries to conserve prey for SSLs (see 68 FR 204, January 2, 2003), but which would now be opened under the proposed action.

The 20 nm closure area around Sutwik Island that does not overlap State waters would not be affected, nor would the three additional 20 nm Pacific cod pot fishery closure areas of WDPS SSL critical habitat around Lighthouse Rocks, Chowiet Island, and Chirikof Island. These fishery closure areas are adjacent to, but are not included in, the area affected by the proposed action (see Figure 2; light purple shaded area). The 3 nm area closures in State waters around the Sutwik Island and Kak Island haulouts would remain unchanged (Figure 2; dark purple shaded area).

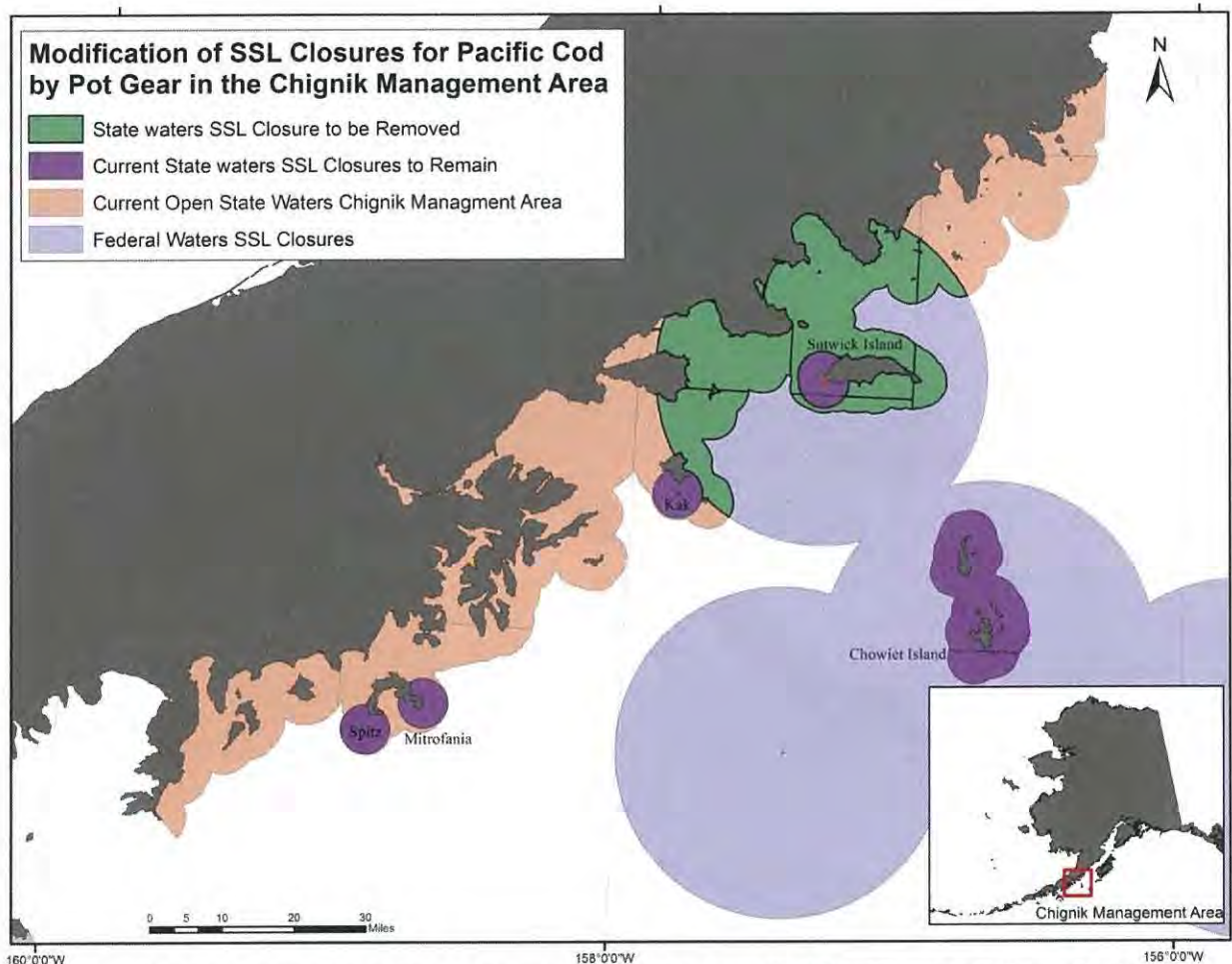


Figure 2. Project location is the state waters of the parallel Pacific cod fishery in the Chignik Management Area (Central Gulf of Alaska). The green area on this map shows waters where modification of Steller sea lion protections are proposed to allow Pacific cod pot gear for the parallel fishery (NMFS 2016a).



Mitigation Measures

Several mitigation measures are already in place to reduce potential impacts of fisheries on the WDPS SSL. These include harvest control rules to protect prey abundance, no transit areas, electronic vessel monitoring, seasonal allocations to reduce the likelihood of localized depletions, and fishery area closures near important sea lion foraging areas. The proposed action relates directly to a change in fishery area closure; for more information on the other existing mitigation measures, refer to the consultation initiation letter (NMFS 2016a). No additional mitigation measures will be implemented with this action.

Listed Species and Critical Habitat

Endangered WDPS SSL and several SSL critical habitat rookeries and haulouts occur within the action area. The proposed action would solely affect endangered SSLs and SSL critical habitat near Sutwick and Kak Islands (all other ESA-listed species in the action area were no effect determinations).

WDPS Steller Sea Lions

The SSL was listed as a threatened species under the ESA on November 26, 1990 (55 FR 49204). In 1997, NMFS reclassified SSLs into two Distinct Population Segments (DPS) based on genetic studies and other information (62 FR 24345); at that time the eastern DPS (EDPS) was listed as threatened and the WDPS was listed as endangered. On November 4, 2013, the EDPS was removed from the endangered species list (78 FR 66139).

SSLs are found throughout the action area (Central GOA), where they are generally increasing in abundance. From 2000 through 2015 the annual rate of change in abundance of WDPS SSL has continually increased in Central GOA (NMFS 2016a). As of 2015, the annual rate of change was increasing at 2.68% for non-pups, and 2.82% for pups in Central GOA (NMFS 2015a). SSLs are found on Sutwick, Kak, and other neighboring islands. There are no indications that numbers at these haulouts are diminishing (NMFS 2015a).

SSLs are opportunistic predators, feeding primarily on a wide variety of fishes and cephalopods, including Atka mackerel (*Pleurogrammus monopterygius*), walleye pollock (*Theragra chalcogramma*), Pacific herring (*Clupea pallasii*), capelin (*Mallotus villosus*), Pacific cod (*Gadus macrocephalus*), Pacific sand lance (*Ammodytes hexapterus*), and salmon (*Oncorhynchus* spp.) (Pitcher 1981, Merrick et al. 1997). The foraging strategy of SSLs is strongly influenced by seasonality of SSL reproductive activities on rookeries, and the ephemeral nature of many prey species. SSLs are generalist predators that eat a variety of fishes and cephalopods (Pitcher 1981, Calkins and Goodwin 1988, NMFS 2008b), and occasionally other marine mammals and birds (Pitcher and Fay 1982, NMFS 2008b).



Winter is a critical period for SSLs, particularly females and juveniles (NMFS 2001, 2003, 2008a, 2010). NMFS has concluded that the winter, in particular, requires catch limitations as it is a particularly sensitive period for SSLs. Not only are juveniles learning to forage and find resources as this time, but their energy demands are very high due to their large growth rate over the first few years of life. For females with pups, their energy demands are about double their requirements without a pup (Winship et al. 2002, Winship and Trites 2003), which makes them potentially susceptible to a reduction in available prey. Under these conditions, a pregnant and nursing female may be more likely to abort the growing fetus which was implanted the previous summer.

Information on SSL biology and habitat (including critical habitat) is available at: <http://alaskafisheries.noaa.gov/pr/steller-sea-lions>

Fisheries Interactions

Fisheries interactions can impact SSLs. Between 2009-2013, there were incidental serious injuries and mortalities of WDPS SSLs observed in the following fisheries: Bering Sea/Aleutian Islands Atka mackerel trawl, Bering Sea/Aleutian Islands flatfish trawl, Bering Sea/Aleutian Islands Pacific cod trawl, Bering Sea/Aleutian Islands pollock trawl, Gulf of Alaska Pacific cod longline, Gulf of Alaska Pacific cod trawl, Gulf of Alaska sablefish, and longline. In addition, observers monitoring the Prince William Sound salmon drift gillnet fishery in 1990 and 1991 recorded two SSL mortalities in 1991, which extrapolated to 29 (95% CI: 1-108) kills for the entire fishery (Wynne et al. 1992). The combined average annual mortality estimate in observed fisheries is 31 (CV = 0.87) WDPS SSL (NMFS 2015b). Entanglement or other interactions with fishing gear is also a source of SSL injury and mortality. From 2009 to 2013, there were six confirmed fishery-related SSL strandings in the range of the WDPS (NMFS 2015b). Fishery-related strandings during 2009-2013 result in an estimated annual mortality of 1.2 WDPS SSL. This estimate is considered a minimum because not all entangled animals strand and not all stranded animals are found or reported (NMFS 2015b). Based on observer data (31) and stranding data (1.2), the minimum estimated mortality rate of WDPS SSLs incidental to all commercial and recreational fisheries is 32 (NMFS 2015b). However, there are no reported SSL serious injuries or mortalities in Alaskan Pacific cod pot fisheries and no confirmed strandings related to this fishery.

Subsistence Harvest

SSLs are subject to subsistence harvest in some areas. The mean annual subsistence take by Alaska Natives (harvested plus struck-and-lost) from the WDPS from 2004 through 2008, combined with the mean take over the 2008-2011 and 2013 years from St. Paul, was 199 WDPS SSLs/year (NMFS 2015b).

Other Anthropogenic Interactions

Another source of mortality data is represented in reports from the NMFS stranding database of WDPS SSLs entangled in marine debris or affected by other types of human interaction. From 2009 to 2013, nine animals possessed circumferential neck entanglements from packing bands or from unknown marine debris, one animal was shot with an arrow, and one animal was

entangled in an aquaculture facility net. The mean annual mortality and serious injury from other sources of human interactions for 2009-2013 is 2.2 individuals. However, this is a minimum estimate because not all mortalities caused by other types of human interactions are discovered and reported (NMFS 2015b).

Mortalities may occasionally occur incidental to marine mammal research activities authorized under MMPA permits issued to a variety of government, academic, and other research organizations. However, between 2008-2012 there were zero reported mortalities resulting from research on WDPS SSLs (NMFS 2015b)

Steller Sea Lion Critical Habitat

NMFS designated critical habitat for SSLs on August 27, 1993 (58 FR 45269). In Alaska, designated critical habitat includes the following areas as described at 50 CFR §226.202 (Figure 3):

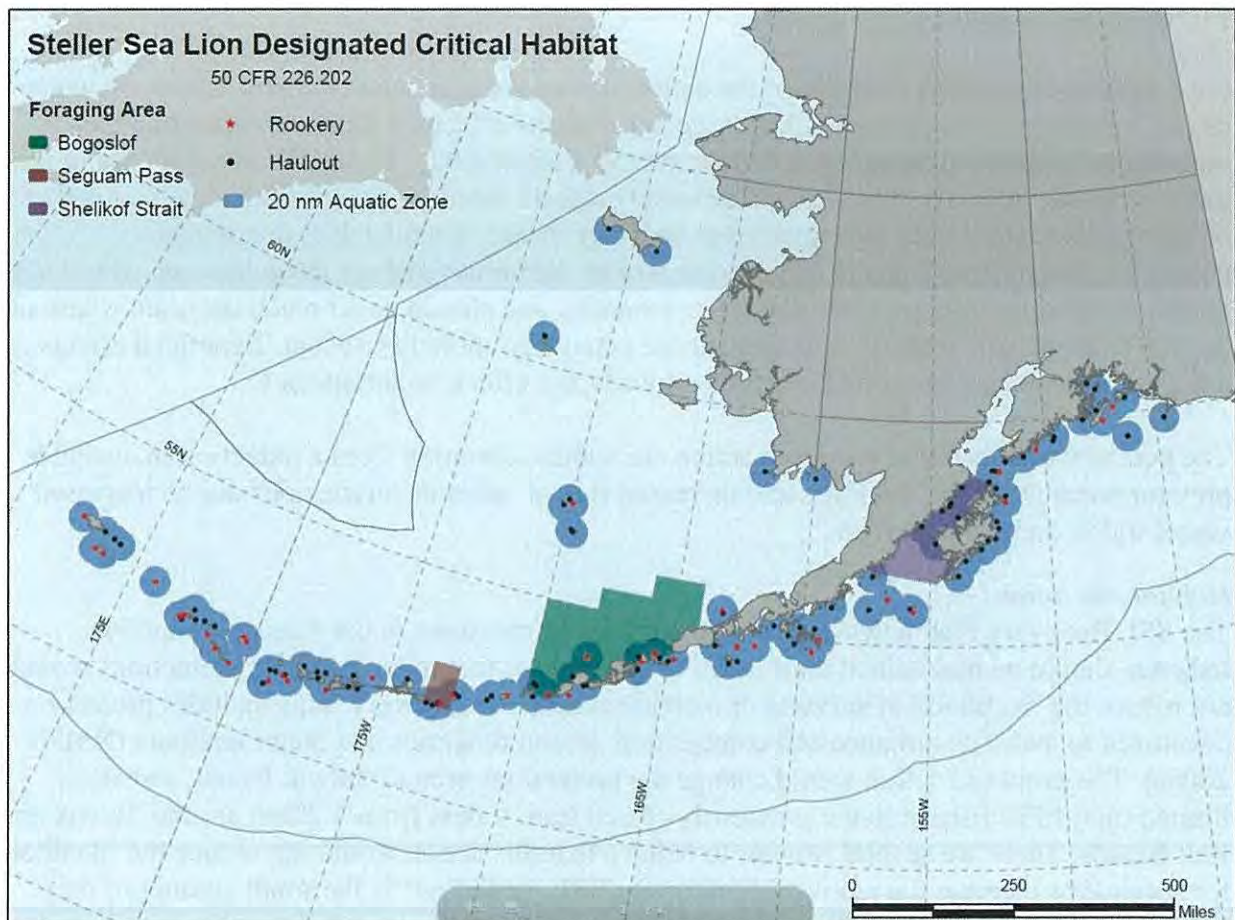


Figure 3. Designated Steller sea lion critical habitat in western Alaska (NMFS 2015a).



1. Terrestrial zones that extend 3,000 feet (0.9 km) landward from each major haulout and major rookery.
2. Air zones that extend 3,000 feet (0.9 km) above the terrestrial zone of each major haulout and major rookery in Alaska.
3. Aquatic zones that extend 3,000 feet (0.9 km) seaward of each major haulout and major rookery in Alaska that is east of 144° W longitude.
4. Aquatic zones that extend 20 nm (37 km) seaward of each major haulout and major rookery in Alaska that is west of 144° W longitude.
5. Three special aquatic foraging areas: the Shelikof Strait area, the Bogoslof area, and the Seguam Pass area, as specified at 50 CFR §226.202(c).

The proposed action would overlap with designated aquatic zones from 3-20nm offshore from Sutwick and Kak Islands.

Effects of the Action

For purposes of the ESA, “effects of the action” means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is “not likely to adversely affect” listed species or critical habitat is that all of the effects of the action are expected to be insignificant, discountable, or completely beneficial. Insignificant effects relate to the size of the impact and are those that one would not be able to meaningfully measure, detect, or evaluate, and should never reach the scale where take occurs. Discountable effects are those that are extremely unlikely to occur. Beneficial effects are contemporaneous positive effects without any adverse effects to the species.

The potential effects of the proposed action are habitat alteration from a reduction in available prey for endangered WDPS SSLs and increased risk of fisheries interactions due to increased vessel traffic and fishing effort.

Habitat Alteration

The SSL Recovery Plan notes that the SSL protection measures in the Alaska groundfish fisheries should be maintained until it can be determined that reducing those protections would not reduce the likelihood of survival or increase the time to recovery. This includes protections developed to avoid disturbance and competition around rookeries and major haulouts (NMFS 2008a). The proposed action would change the protections around Sutwick Island, and allow limited (non-FFP) fishing in the previously closed state waters from 3-20nm around Sutwick and Kak Islands. There are several reasons to believe that this action would not reduce the likelihood for survival or increase the recovery horizon for SSL, including: 1) the small amount of prey removal relative to the TAC; 2) the limited fishing effort 3) the expectation of no anticipated local depletions; 4) the increasing abundance of SSL in this area; and 5) the increasing SSL trends in other areas with and without fishing restrictions.



The amount of prey removal anticipated to occur in the area that would be opened by this action is small relative to the TAC. NMFS projects the potential for a shift in the spatial distribution of less than 1 percent (0.8%) of the Central GOA Pacific cod harvest under the proposed action, with no change to the overall Pacific cod TAC or temporal dispersion of the harvest.

The anticipated fishing effort will be low. Fishing is already occurring through the separate State-managed Guideline Harvest Level (GHL) fishery in this area, and the action would only introduce a low level of harvest (approximately 300 tons) by a limited number of vessels (estimated 4 vessels) using pot gear from January through February each year. Under the proposed action, the GHL harvests inside SSL critical habitat are more than ten times the harvest expected to occur in parallel fishery State waters within the 3 nm to 20 nm closure around the Sutwik Island haulout. Therefore, the action would not represent a substantial change relative to the GHL fishing effort already occurring in this area.

Localized depletions are not expected. Conners and Munro (2008) have shown that the winter Pacific cod trawl fishery in their Bering Sea study area does not result in localized depletion of Pacific cod at the scale of the fishery removal. Although the fishing removals may have an immediate localized effect on fish abundance, the effect may be obscured by characteristic rapid fish movement (less than one week) over a geographic scale greater than the fishery removal. Qualitative inference from the study area to other areas, including the action area, requires consideration of similarities in fishing pressure and Pacific cod behavior and movement. Although additional information is needed on the size and duration of prey density decreases that impact SSL foraging success on a local scale, it is reasonable to assume that, based on these findings, the slow pace and very low level of expected harvest under this action would not result in localized depletion of Pacific cod in the action area (Conners and Munro 2008, NMFS 2015a).

The current SSL abundance trend in this area increasing. SSL abundances at Sutwik and Kak Island haulouts increased from 2002 through 2015 concurrent with GHL Pacific cod harvests inside SSL critical habitat west of 156° W. Further, the Sutwik and Kak Island haulouts are historically smaller than the adjacent Aghiyuk and Chirikof Island haulouts, which will maintain 20nm closure areas. These larger haulouts are expected to impart larger demands on localized prey resources and are therefore more important closure areas than the Sutwik and Kak Island closures.

SSL trends in other areas with and without fishing restrictions indicate that fishery closures are not necessarily driving recovery. NMFS implemented area closures for Pacific cod fishing with pot gear at 39 of the 78 SSL rookery and haulout sites in the GOA. Greater area closures may not correspond with greater SSL population increases. A cursory examination of a Central GOA site with no area closures for any gear type (e.g., Caton Island) shows an increasing abundance of SSLs whereas only one animal has been counted over the last 12 years at a site with a 20 nm closure for all gear types (e.g., Samalga) (Fritz et al. 2016). The proposed action would modify one of 39 area closures in GOA for only a few vessels fishing in the parallel Pacific cod fishery.



For the above reasons, NMFS concludes that the effects of the proposed action on the WDPS SSL would not be able to be meaningfully measured, detected, or evaluated. We therefore consider the anticipated effects of this action on potential habitat alteration and prey availability for WDPS SSLs to be insignificant.

Fisheries Interaction

There have been no reports in the List of Fisheries of direct, incidental or intentional takes of SSLs in Alaska's Pacific cod pot fishery (NMFS 2016b). Therefore, NMFS concludes that opening the proposed area to fishing for Pacific cod with pot gear during the parallel fishery to a few vessels over a few months is not likely to result in direct or incidental takes of SSLs.

We therefore consider the anticipated fisheries interaction with WDPS SSLs due to this action to be discountable.

Steller Sea Lion Critical Habitat

Habitat Alteration

NMFS identified physical and biological features essential for conservation of SSLs in the final rule to designate critical habitat (58 FR 45269; August 27, 1993). The proposed project may impact SSL critical habitat by reducing prey availability. However, this impact is expected to be insignificant due to mitigation measures in place and no anticipation of localized depletion. We evaluate effects to each of the essential features of critical habitat below.

Physical. Alaska rookeries, haulouts, and associated areas identified at 50 CFR §226.202(a) have been designated as critical habitat. These critical habitat designations include terrestrial zones that extend 3,000 feet landward, air zones that extend 3,000 feet above the terrestrial zone, and aquatic zones that extend 20 nm seaward for each major rookery and haulout west of 144° W. longitude. The proposed action will not allow fishery participants to fish within 3 nm of Sutwick and Kak Islands, and protections to all other major rookery and haulout locations in the action area would stay the same. The 17 nm surrounding Sutwick that would be open to fishing under the proposed action are anticipated to have insignificant effects on critical habitat due to the limited duration of fishing (Jan-Feb), limited number of boats (approximately four), and the limited amount of catch (approximately 300 tons).

We therefore consider the anticipated effects of this action on WDPS SSL critical habitat to be insignificant.

Biological. Three special aquatic foraging areas have been identified at 50 CFR §226.202(c): the Shelikof Strait area, the Bogoslof area, and the Seguam Pass area. All three special aquatic zones are outside the Chignik Management Area. However, these areas could be indirectly affected by the action as the TAC for Pacific cod would remain the same, while Pacific cod fishing occurring in the newly open area as a result of the action would likely mean that Pacific cod fishing in surrounding areas (including these three special aquatic foraging areas) would be slightly



reduced. This indirect effect would be wholly beneficial as it would, if anything, increase prey availability in those areas.

The potential effects of the action on biological features of the WDPS SSL critical habitat are the same as those evaluated in the habitat alteration and prey availability analysis on pages 8-9. We therefore consider the anticipated effects of this action on WDPS SSL critical habitat to be insignificant.

Conclusion

Based on this analysis, NMFS concurs with your determination that the proposed action may affect, but is not likely to adversely affect, the WDPS SSL or designated SSL critical habitat. Reinitiation of consultation is required where discretionary Federal involvement or control over the action has been retained or is authorized by law and if (1) take of listed species occurs, (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (3) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this concurrence letter, or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16).

Please direct any questions regarding this letter to Suzie Teerlink at Suzie.Teerlink@noaa.gov or (907) 586-7240.

cc: Bridget Mansfield, bridget.mansfield@noaa.gov
Brandee Gerke, brandee.gerke@noaa.gov

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October 4, 2016

Alaska Department of Fish and Game
Board of Fisheries
PO Box 115526
Juneau, AK 99811
Email: dfg.bof.comments@alaska.gov

RE: Comments for October 18-20 Work Group Meeting for the ACR 10 concerning the Southern Southeast Sablefish Fishery

Dear Board of Fisheries Members,

Petersburg Vessel Owner's Association (PVOA) is composed of over 100 members participating in a wide variety of species and gear type fisheries. An additional 35 businesses supportive to our industry are members. Targeted species include salmon, herring, halibut, sablefish, cod, crab, shrimp, pollock, tuna, geoduck, and sea cucumber.

PVOA's mission statement is to:

"Promote the economic viability of the commercial fishing fleet in Petersburg, promote the conservation and rational management of North Pacific resources, and advocate the need for protection of fisheries habitat."

PVOA continues to support legalizing pot gear for the C61C Southern Southeast Sablefish fishery and ask that the Board of Fish address ACR 10 before the Southeast Shellfish/Finfish cycle in 2018. We believe that this fishery is in need of action before 2018 for conservation issues, as well as economic reasons.

First and foremost, the Department of Fish and Game during the work session on August 30th stated that they couldn't estimate the amount of sablefish taken by whales during their stock assessment surveys or the commercial fishery when killer whales are occupying Clarence Straits. Our members agree that this is problematic for them in the management of the fishery and accounting of total removals for each year. It also affects the biomass and consequently the available acceptable removals for all user groups in the area.

Additionally, when vessels either for survey purposes or commercial fisheries suffer predation from whales, they are forced to set additional gear increasing their interactions with bycatch of many types of rockfish and other species.

The Southern Southeast Sablefish fishery is currently broken into two seasons. The hook and line gear get the first 75 days from June 1 to August 15 and pot gear gets the second 75 days from September 1 to November 15. Our members have a conflict in seasons between the hook and line season and various southeast salmon fisheries' seasons. **PVOA members support re-opening the hook and line season on August 25th** to prevent this timing conflict and enable the fishery to occur when less whales are in Clarence Straits. This re-opening would also allow permit holders to choose to fish their equal quota share in the fall when prices for sablefish are often higher than in the spring.

At the 2015 Southeast Finfish meeting, our membership supported similar proposals 134 and 135 that would allow hook and line longline fishermen the option to convert to pot gear. We also

ACR 10 October 18-20, 2016
PO Box 232 Petersburg, AK 99833

Petersburg Vessel Owner's Association
(907) 772-9323
email: pvoa@gci.net



PC 22
2 of 2

supported the Emergency Petition in August of 2016 that would have allowed pots or an extension of the season.

Thank you for your service and considering our comments. Petersburg Vessel Owner's Association represents 6 of the 20 active permanent and interim C61C permits. We would be happy to answer any questions, please email us at: pvoa@gci.net.

Respectfully,

Megan O'Neil

Megan O'Neil
Executive Director



Submitted By
Christopher Tobias
Submitted On
9/30/2016 4:28:37 PM
Affiliation
Sport Fishing Guide

Phone
907-521-2927
Email
chris@roehard.com
Address
PO Box 877922
Wasilla, Alaska 99687

Dear Board Members of the Alaska Board of Fisheries,

I am writing to you in hopes that you would support the common sense proposal to strengthen Alaska's fish habitat permitting for the future of sustainable salmon. As a sport fishing guide, I whole heartedly support the diverse Alaskan authors who have put this request before you. The importance of this proposal can be seen by the array and background of the individuals that united around a common solution. From sport fishers, to commercial fishers, business owners, tribal representatives and scientists, one unanimous conclusion was reached. Title 16 needs to be strengthened to provide the ADF&G the necessary tools to protect and preserve our salmon stocks for current and future generations.

My wife, Hillery, and I own Roe Hard Guide Service, which operates on the Susitna River Drainage. We make a large portion of our living guiding clients for all five species of Salmon. Without a healthy fishery and depleted resources we would not be able to operate in any way shape or form that would be beneficial to us and our clients. A healthy fisher is not only important for us as Alaskans economically, but it is imperative we maintain a healthy fishery so future generations can enjoy and prosper off of our natural resources.

The issue at hand is that Title 16, the Alaska Statute that deals with all things fish and game, has not been amended since statehood. Although the statute contains statements for how the State of Alaska will plan or development of important salmon habitat, it lacks clear criteria and specificity for the ADF&G to determine whether habitat permit applications should be approved or denied.



The Alaska Board of Fisheries should listen to the people of this great state, and the authors of the proposal, and use its authority to recommend that Title 16 be updated to incorporate principles and criteria from the Sustainable Salmon Policy, which were specifically developed to “ensure conservation of salmon and salmon’s require marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska’s fishing communities.” 5 AAC 39.22(b). Such a recommendation is consistent with the Board’s statutory duties to conserve fish and game and assure that their use continues to be available on a sustained yield basis.

The State of Alaska’s first industry was fishing, and the need for the conservation based management was a primary impetus for statehood. In economically tough times, Alaska’s fishing industry remains a reliable economic engine for countless Alaskan families and communities. Thousands of Alaskans, such as myself, are employed as fishing guides, tourism operators, commercial fishers, seafood processors, marine mechanics, and so on. Given the grave importance and long-term potential of Alaska’s salmon fisheries to sustain many more generations of fishing families, we must ensure that our laws and development decisions are stringent an concise when it comes to protecting salmon habitat. Thank you for your service on our state Board of Fisheries. Please forward the need for action to update our fish habitat law onto the state legislature.

Sincerely,

Christopher and Hillery Tobias

Owners

Roe Hard Guide Service



Submitted By
David D Athearn
Submitted On
10/1/2016 5:16:09 AM
Affiliation
Retired sport fisherman

Phone
907 321 3678
Email
athearn@gci.net
Address
4237 Marion drive
Juneau, Alaska 99801

I am a 73 year old, 40 year residence of Alaska. I suggest that seniors be allowed to use bait in fresh water as well as children under the age of 16. It is very difficult to hike up and down streams at my advanced age and being allowed to use bait would increase my chances of catching my winter supply of fish while staying close to my vehicle. I feel this would have minimal impact on the fresh water fisheries and be a good accomadation to older Alaskans. Thanks for considering my proposal.



Submitted By
Terry Nininger
Submitted On
10/1/2016 10:27:45 AM
Affiliation

Phone
907-357-1606
Email
nininger@alaska.net
Address
P.O. Box 877944
Wasilla, Alaska 99687

RE: Letter of Support for EF-F16-037: Establish Shell Lake As A Conservation Concern

In the interest of rehabilitating the Shell Lake sockeye adult escapement and smolt emigration, Shell Lake should be classified as a stock of *conservation concern*, (Sustainable Salmon Fisheries Policy, (SSFP), 5 AAC 39.222 (f) (6), "conservation concern"). In recent history there has never been a greater need to restore a salmon population than what currently exists at Shell Lake.

Adult escapement into Shell Lake has dropped from 69,800 in 2006 to 215 fish in 2016. Out migrating smolt has dropped from 80,600 in 2007 to 12 fish in 2016. It is only because of the efforts by a private organization, Cook Inlet Aquaculture Association, (CIAA), that there are any remaining sockeye in Shell Lake.

As referenced in the SSFP, "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)". Yes, "a conservation concern is more severe than a management concern". A conservation concern has rarely, if ever, been used by the BOF but the Shell Lake issue is unique. Previous management efforts have failed to address the complete collapse of this run. Based on euphotic volume, the estimated adult sockeye salmon potential production in Shell Lake should be 10.3% of the entire Susitna River drainage.

The sockeye problem at Shell Lake is complex. Certainly, the pike population is a primary factor, as is the presence of disease and beavers. But that does not take away from the need for an action plan that precludes further harvest of sockeye. You cannot maintain the same level of harvest and still reduce the mortality factor. Additionally, the action plan should include further understanding of what can be done to reinstate the salmon population.

The Alaska Board of Fisheries needs to take a bold and unprecedented position to declare the Shell Lake sockeye a stock of conservation concern. In the short term this may compromise the interests of sports and personal use fishermen and commercial fishermen, but in the long run it is the only action that will return this fishery to its original and natural state.

Terry Nininger



Submitted By
Joshua Cress
Submitted On
10/1/2016 12:56:38 PM
Affiliation

Phone
907-202-3053
Email
jjcress@alaska.edu
Address
50374 Speedy Hill St.
Kenai, Alaska 99611

Dear members of the Board,

My name is Joshua Cress and I am writing regarding the proposed changes to Title 16 of the Alaska State Constitution and ensuring sustainable salmon habitats are preserved. I am an Alaskan of 11 years, and a lifelong Alaskan in spirit. I have lived on the Kenai Peninsula for the entirety of my residence and have worked in the fisheries industry first-hand both as a deckhand and as a seasonal employee for the Department of Fish and Game.

Salmon are very important to me and to our state as you are very well aware of since you are tasked with regulating our salmon and making the difficult decisions for salmon fisheries. It is my opinion that the proposed changes to the Alaska State Constitution, Title 16, are reasonable, but more importantly necessary. The fact that this section of the constitution has not been updated since its original ratification is downright negligent, both to Alaskans and the salmon they so value. Considering that 1 in 7 Alaskans are employed by the seafood industry (1), and that industry totals an export value of 3.27 billion dollars annually (2) the future of Alaskan's and Alaska's economy are at stake. Consider also the lower-48's salmon fisheries. In 1999, 40% of historic spawning ranges were unoccupied by salmon in Oregon, Washington, Idaho, and California (3). We do not make further definitions to Title 16, or manage our salmon in a sustainable and biological manner, our future may look similar.

I urge you to consider Alaskans and their salmon, and would like to urge you once again to make this necessary change tot Title 16 and send it to the senate. Implementing the Sustainable Salmon plan that was created by the Department of Fish and Game would be a very wise decision.

I thank you for taking your much valued time to review this plea.

Sincerely,

Joshua J. Cress

References:

1. Alaska Seafood Marketing Institute 2014 Annual Report – http://ebooks.alaskaseafood.org/ASMI_Annual_Report/
2. Alaska Seafood Market Institute Economic Value Report – <http://www.alaskaseafood.org/industry/seafood-market-info/economic-value-reports/>
3. Climate Change Impacts on the United States - Foundation Report: The Potential Consequences of Climate Variability and Change - National Assessment Synthesis Team (U.S.)



Submitted By
Nyangath Diew
Submitted On
10/1/2016 6:10:29 PM
Affiliation

My name is Nyangath K Diew. I'm a student at UAA and I'm writing today because of how important salmon is to me and my family, as it is to so many Alaskans, especially the Native families. They depend on salmon and that's how they feed their families.

I'm writing in support of the proposed update to Alaska's fish habitat permitting process.

I strongly support the proposal because most of my family members work in the fishing industry - that is how they make a living and take care of their families. Please consider this and make the right decision for us and for everyone that will be affected by this including our future generations.



Submitted By
Summer Kerr
Submitted On
10/2/2016 10:45:25 AM
Affiliation

Dear Board of Fisheries members -

I am a lifelong Alaskan born just 2 months after Alaska became a state. I live in Anchorage, and have lived in the Mat-Su where for years I have fished recreationally and eaten wild salmon.

Part of being an Alaskan is salmon. Before the Trans-Alaska pipeline was built much of our economy and social activity centered around salmon, other local fish and wild game. Alaska fish and game connected us as one people, no matter what race, religion, education level each of us had. We cared more about being stewards of our state than becoming rich off things that would change our way of life.

Teaching kids and teens how to catch, prepare and cook salmon teaches many skills and as a mother of two sons is a drug-free activity that encourages healthy lifestyles and builds a sense of community, which in turn encourages our youth to protect our environment and keeps them out of activity that leads to delinquency.

I respectfully request the Board of Fisheries define what is undefined in Title 16 so our fisheries are protected from harm and salmon will thrive. I also ask the Board to include a provision which mandates public notice be made and public input be strongly considered for any permits for construction that may impact salmon streams.

Salmon are a true and proven renewable resource - if we protect our salmon then future generations will be able to continue our way of life.



Submitted By
Monika Carhart
Submitted On
10/2/2016 7:04:57 PM
Affiliation

Board of Fish Directors,

I am relatively new to Alaska, and I have been awed by her many treasures. Coming from the lower 48 I have seen the ravages of man throughout the states and my concern for Alaska's treasures is mainly toward sustainability. These salmon resources can be around for many generations to come - this is needed for all creatures in Alaska, from the trees to top predators, man included. I urge you to adopt the proposed changes to Title 16, so that this magnificent state can remain so for generations to come.

Thank you,

Monika Corhart



September 21, 2016

To: Board of Fisheries
Alaska Department of Fish and Game
Boards Support Section
PO Box 115526
Juneau, AK 99811-5526

Re: ACR 9

Dear Board Members,

To provide background, at the Southeast Finfish meeting in February 2015 my father, Darrell Kapp, submitted a proposal to allow Sitka sac roe herring seine permittees the opportunity to harvest herring eggs using the alternative method of Open Pound roe on kelp (Proposal 126). It was found by the Department of Law (DOL) there was an overlap in Commercial Fisheries Entry Commission (CFEC) regulations between the Sitka Sound seine (G01A) and Northern Southeast herring pound (L21A) administrative areas. DOL stated, "The board likely does not have authority to allow additional users into this limited entry fishery without prior action by the Commercial Fisheries Entry Commission (CFEC)."¹ Consequently, the Board tabled the proposal until the statewide meeting in March 2016 and sent a letter to CFEC on March 3, 2015 asking them to re-define the administrative area for the Northern pound fishery to exclude Sitka Sound so a decision could be made on Proposal 126.² CFEC responded to the Board they were accustomed to the Board first making methods and means decision conditioned on subsequent regulatory action by the commission but felt there was a prima facie case for a regulatory proposal.³ CFEC held a hearing in Juneau on November 6, 2015 and determined in January 2016 to take no further action on the proposal, but allowed that should the Board take positive action on Proposal 126, CFEC would reconsider the matter.⁴ The DOL, in their review of Proposal 126 for the Board's statewide meeting in March 2016, stated, "The Board does not have the authority to adopt this proposal."⁵

If the Board could not take action on the proposal due to the inaction of CFEC then which agency has the statutory authority to make the decision?

Before testimony at the CFEC hearing started, the CFEC Chair stated: "the thing that I would like all of you to note is that our proposal does not address the merits of proposal 126."⁶ Though it was brought to everyone's attention that merits of proposal 126 were not going to be debated, the testimony presented at the CFEC hearing was identical to testimony presented to the Board at its SE Finfish meeting in February 2015. The difference was the Board had a more robust understanding of the issues

¹ Dept of Law Memorandum, February 11, 2015

² Board of Fisheries Letter, March 3, 2015

³ CFEC Letter, May 13, 2015

⁴ CFEC Letter, January 8, 2016

⁵ Dept of Law Memorandum, March 4, 2016

⁶ BOF Statewide Meeting PC#14 p. 5-6 CFEC Hearing Transcription 11-6-15



surrounding proposal 126 and CFEC did not. CFEC made clear their hearing was not to debate the merits of proposal 126 so; consequently, they did not receive the same information that was provided to the Board. CFEC lacked the information about the experimental fishery, marketing reports, and everything else that would go into making a better informed decision with regards to proposal 126. Understanding that the merits of proposal 126 were going to be decided by the Board, I attended and testified at the meeting asking CFEC to change the administrative area definition pursuant to AS 16.43.200⁷ to exclude Sitka Sound so the Board could decide on proposal 126 in accordance with AS 16.43.950.⁸

I did not effectively debate proposal 126 in front of CFEC because I was informed the Board of Fish was the appropriate forum. Unfortunately, as far as I can tell, the CFEC's no action decision was based on what appeared to be a majority opinion of people in the room regarding roe on kelp markets and not based on anything pertaining to the Limited Entry Act. This was disappointing and leaves many questions unanswered:

- What is the relationship between the permit holder and the access to a biomass of fish?
- Who has the right to harvest the biomass the permit holder or the gear?
- Does adding another harvest method for a permit holder in a fully utilized fishery change the individual's right of access to the biomass in the fishery?
- Are the two fishery areas, set up by CFEC, representative of the historical biomass areas of each fishery and the management of each fishery?
- Why were two large areas allowed instead of small areas?
- Why were the administrative lines allowed to overlap yet not overlap completely?
- If the Board of Fisheries is supposed to determine the approval of proposals then why can action or, in this case, no action from CFEC prevent them from doing so?

These are only some of the questions that should have been answered.

We believe the CFEC made an unfitting decision when they established the administrative area for the L21A fishery. They had a choice⁹ but exceeded their statutory responsibility and planned for the expansion of the L21A fishery by choosing a large area definition. CFEC regulates entry into existing fisheries not future fisheries.¹⁰ They overstepped their statutory responsibility by overlapping the G01A area and the L21A area. In addition, CFEC didn't correct the area overlap and usurped the Board's statutory responsibility for development and utilization of fisheries.¹¹

⁷ AS 16.43.200 Administrative Areas

⁸ AS 16.43.950 Applications of Regulations of Board of Fisheries

⁹ CFEC Letter, January 8, 2016, paragraph #4

¹⁰ AS 16.43.100. (3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries.

¹¹ AS 16.05.251. (12) regulating commercial, sport, guided sport, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries;



The Board has the responsibility to set the means and methods of harvest in an area¹² but it seems there is a conflict with CFEC on how to do it. A memo circulated in the past from CFEC states that following favorable Board action on the proposal, CFEC would stand by to propose complementary regulations.¹³

In this case, the Board was not allowed to act on the proposal so CFEC was not obligated to make the needed change. Granted the following is only an assumption, but if the Board would have been allowed to adopt the proposal then they would have been able to express their reasoning behind supporting it to CFEC. Perhaps the Board's adoption of the proposal would have been compelling enough for CFEC to take action as requested.

We are requesting the Board of Fisheries to make sense of what is appearing to be a "chicken and egg" situation and allow us to again offer a proposal similar to 126 for Board of Fisheries consideration at the swiftest possible time. If CFEC could not "debate the merits" of proposal 126 and the Board is not authorized to adopt proposal 126 then how does proposal 126 get a fair hearing?

Alaska State Statute states CFEC shall establish administrative areas reasonably compatible with areas for which specific regulations are adopted by the Board of Fisheries⁷. The Board is told by DOL they can't adopt the regulations but Alaska State Statute also states that nothing in the Limited Entry Act (CFEC) limits the powers of the Board of Fisheries, including the power to determine legal types of gear⁸. Why, with respect to these statutes, does CFEC have the power to stop potential approval of a Board proposal when nothing in the Limited Entry Act limits the powers of the Board of Fisheries?

Thank you for your time and consideration of this important matter.

Regards,

Ryan Kapp

Darrell Kapp
G01A Permit Holder

¹² AS 16.05.251. Regulations of the Board of Fisheries. (4) Establishing the means and methods employed in the pursuit, capture, and transport of fish.

¹³ CFEC Memorandum January 12, 2000 submitted as RC 100 during 2016 SE Finfish meeting



Ryan Kapp RC100

MEMORANDUM STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

TO: Alaska Board of Fisheries

DATE: January 12, 2000

Dan K. Coffey, Chairman
Ed Dersham
Larry J. Engel
Grant Miller
Russell Nelson
Virgil L. Umphreour
Dr. John R. White

PHONE: (907) 789-6160 VOICE
(907) 789-6170 FAX



FROM: Commercial Fisheries
Entry Commission

SUBJECT: Board Proposals 168, 175 and 174-
Optional Open Pounding
Alternative for the Southeast Roe
Herring Seine Fishery (Sitka Sound)

Marlene Johnson, Commissioner
Mary McDowell, Commissioner
Bruce Twomley, Chairman



Board Proposals 168 and 175 would authorize open pounding as an alternative means of harvesting roe herring in the Sitka Sound roe herring seine fishery. Board Proposal 174 opposes the change.

The Board previously considered this issue in January of 1997 (Proposal 441). Our comments at the time (coordinated with those of the Department of Law) remain current today. This memo is a recap.

Since our 1997 communications, (1) the Department has experienced managing the experimental, Sitka Sound open pound fishery authorized by the Board in 1997; and (2) the Board authorized a herring pound spawn-on-kelp alternative for Norton Sound herring limited entry permit holders (both gillnet and beach seine). 5 AAC 27.965.

If the Board were to act favorably on Proposals 168 and 175, the Board should be very clear its action affects only the existing, limited Sitka Sound roe herring purse seine fishery.

In turn, following favorable Board action on Proposals 168 and 175, CFEC would stand ready to propose complimentary changes to its regulations. To adopt such regulations after a public comment period, CFEC would be required to determine independently that the purposes of the Limited Entry Act would be served by doing so.

In particular, CFEC's current definition of the administrative area for the Northern Southeast herring spawn-on-kelp pound fishery includes the area in which the Sitka Sound roe herring purse seine fishery is conducted. Compare 20 AAC 230(a) and 5 AAC 39.200(m)(2). CFEC would likely propose



modification of its current definition of the administrative area for the Northern Southeast herring spawn-on-kelp pound fishery to exclude the area included within the Board's definition of the Sitka Sound roe herring purse seine fishery.

In making and considering this proposal, CFEC would be guided by the Limited Entry Act, AS 16.43.200, which reads in relevant part as follows:

The commission shall establish administrative areas suitable for regulating and controlling entry into the commercial fisheries. The commission shall make the administrative areas reasonably compatible with the geographic areas for which specific commercial fishing regulations are adopted by the Board of Fisheries.

* * *

The commission may modify or change the boundaries of administrative areas when necessary and consistent with the purposes of [the Limited Entry Act].

Generally, the Entry Commission would also be guided by AS 16.43.950, which, in relevant part, provides:

Nothing in [the Limited Entry Act] limits the powers of the Board of Fisheries, including the power to determine legal types of gear and the power to establish size limitations or other uniform restrictions applying to a certain type of gear. Holders of interim-use permits or entry permits issued under this chapter are subject to all regulations adopted by the Board of Fisheries.

Our regulatory procedure would allow us to meet our responsibility under the Limited Entry Act, and, additionally, help generate public awareness and comment (particularly from members of the public who believe they have interests under the limited entry system that should be addressed). Our procedure creates an opportunity for the commission to clarify potential ambiguity between regulations of the Board and of the commission. The commission must reserve judgment on the issue until it has received public comment.

Bruce Twomey plans to report to the Board on Saturday, January 15, 2000.

If the Board has additional questions during the following Board meetings, at least one of the following individuals will be available by phone at 789-6160: Bruce Twomey, Susan Haymes, or Kurt Schelle.

cc: Frank Rue, Commissioner, ADF&G
Doug Mecum, Director of Commercial Fisheries
Scott Marshall, Regional Supervisor
Diana Cote, Executive Director, Board of Fisheries
Stephen White, Assistant Attorney General



MEMORANDUM

STATE OF ALASKA *Department of Law*

To: Glenn Haight
Executive Director
Alaska Board of Fisheries

Date: February 11, 2015

File No. J13014200582

Tel. No. 269-5232

Fax: 279-2834

From: Lance Nelson
Seth Beausang
Assistant Attorneys General
Natural Resources Section
Department of Law

Subject: **Comments on Proposals for
2015 Board of Fisheries
Meeting on Southeast
Alaska/Yakutat Finfish Issues**

The Department of Law has the following comments on the proposals to be considered by the Board of Fisheries at its 2015 meeting in Sitka on regulations for Southeast Alaska and Yakutat Areas finfish issues.

Proposal 124: This proposal would authorize equal share quotas for participants in the Sitka Sound sac herring fishery during years when 70% of permit holders voted in favor of such quotas. This is likely beyond the authority of the board. The board may not delegate its authority to decide how a fishery is prosecuted to anyone other than the commissioner or department, especially when there are expected to be individual fishers who do not favor the quota.

Proposal 126: This proposal would allow herring seiners to opt to use open herring pounds in lieu of their seine gear. Southeast Alaska herring pound limited entry permit holders are generally the only users who can participate in a pound fishery in their administrative area, not seiners. "Herring pound" is generally defined as "an enclosure used primarily to retain herring alive over an extended period of time." 5 AAC 39.105(d)(20). But in Southeast Alaska, a "herring pound" can include an "open pound" which is defined in 5 AAC 27.130(e)(2). The board likely does not have authority to allow additional users into this limited entry fishery without prior action by the Commercial Fisheries Entry Commission (CFEC).

Proposals 131-134: These proposals raise similar issues as in Proposal 126. There are already three permit holders in the Southern Southeast sablefish limited entry pot fishery. 20 AAC 05.320(e). The board likely does not have authority to allow additional users into this limited entry fishery without prior action by the CFEC.

Proposal 148: If the board authorizes community harvest permits, such permits could not be limited to residents of Hoonah or any other particular community.

Proposal 155: This proposal would allow "boat" or "party limits" for sport fishing rather than bag or possession limits that apply to individuals. One consideration



THE STATE
of ALASKA

GOVERNOR BILL WALKER

RC 142
Department of Fish and Game
ALASKA BOARD OF FISHERIES

1255 West 8th Street
P.O. Box 115000
Juneau, Alaska 99811-5000
Phone: 907.463.4110
Fax: 907.463.6794

March 3, 2015

Bruce Twomley
Chairman, Alaska Commercial Fisheries Entry Commission
P.O. Box 110302,
Juneau, AK 99811-0302

Subject: Board of Fisheries Action on Southeast and Yakutat Finfish Meeting Proposal 126

Chairman Twomley:

During the 2015 Southeast and Yakutat Finfish meeting in Sitka this past week, the Board of Fisheries considered Proposal 126, which would allow Sitka Sound herring seine permit holders to utilize open pounds to harvest roe on kelp in lieu of their customary sac-roe herring seine gear.

You may be aware the Sitka Sound herring fishery value has declined somewhat over the past few years with the market price falling below \$200/ton.

Also, the Sitka Tribe has encouraged the Board to reduce open fishing area and diminish harvest levels.

In considering Proposal 126, the Board was intrigued that the open pound fishery might provide a potentially higher price-point product to the market.

The Board was advised by the Department of Law that the Board likely does not have authority to allow new entrants to limited entry herring pound fisheries without approval by the Commercial Fisheries Entry Commission (CFEC).

A majority of the Board voted to again consider Proposal 126 next year if CFEC were to re-define the current administrative area for the Southern Southeast herring pound limited entry fishery to exclude Sitka Sound, where it appears no herring pound operations are currently authorized or have occurred there. The Board could then consider authorization of open pound gear as an alternative for sac roe seine permit holders. The CFEC could then ratify that alternative gear for seine permits.

The Board was offered a variety of options by the Department of Law for action on Proposal 126 in light of the inability of the Board to pass the proposal as written, including passing the proposal contingent on eventual approval by CFEC. Not knowing whether or when CFEC might act, the Board found it difficult to craft appropriate language. The Board decided it was more appropriate for the proposer to approach CFEC for approval of this concept before the Board would take subsequent action and allow current seine permit holders the option of utilizing open pound alternative gear.



Commissioner Bruce Twomley

- 2 -

March 3, 2015

Accordingly, I am writing to inform you that the Board is open to further consideration of the proposal, and encourages the CFEC to assess the feasibility of acting to allow this fishery when approached by the proposer, Mr. Ryan Kapp.

You may already be aware of this concept as it has been before both the Board of Fisheries and CFEC over the years. We understand that CFEC may need a fair amount of time to make its determination.

Best Regards,

Tom Kluberton, Chairman
Alaska Board of Fisheries

Attached: Proposal 126

CC: The Honorable Sam Cotten, Commissioner ADF&G



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Commercial Fisheries Entry Commission

1000 TRAVERSWAY, SUITE 100
PO BOX 116028
ANCHORAGE, ALASKA 99511-0028
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ANCHORAGE, ALASKA 99511-0028
FAX: 907.261-5179

May 13, 2015

Tom Kluberton, Chairman
Alaska Board of Fisheries
P.O. Box 115526
Juneau, AK 99811-5526

Re: Board of Fisheries Action on Southeast and Yakutat Finfish
Meeting Proposal 126

Dear Chairman Kluberton:

I am sorry for the time that this response to your March 3, 2015 letter has taken. CFEC and I have had much more than the usual interruptions during the intervening period.

You called our attention to Board Proposal 126, which appears to be intended to authorize open pounding as an alternative means of harvesting roe herring in the Sitka Sound roe herring seine fishery.

An issue arising from the proposal is that CFEC's current definition of the administrative area for the Northern Southeast herring spawn-on-keel pound fishery includes the area in which the Sitka Sound roe herring purse seine fishery is conducted.

Your letter suggested the following approach:

The Board was advised by the Department of Law that the Board likely does not have authority to allow new entrants to limited entry herring pound fisheries without approval by the Commercial Fisheries Entry Commission (CFEC).

* * *



A majority of the Board voted to again consider Proposal 126 next year if CFEC were to re-define the current administrative area for the [Northern] Southeast herring pound [limited entry fishery] to exclude Sitka Sound, where it appears no herring pound operations are currently authorized or have occurred there. The Board could then consider authorization of open gear as an alternative for sac roe seine permit holders. The CFEC could then ratify that alternative gear of seine permits.

I dithered over this a little bit, because I am accustomed to the Board first making a methods and means decision conditioned on subsequent independent regulatory action by the commission. However, there is at least a *prima facie* case for CFEC making a regulatory proposal that would modify its current definition of the administrative area for the Northern Southeast herring spawn-on-kelp pound fishery to exclude the area within Board's definition of the Sitka Sound roe herring purse seine fishery. Because our administrative area definition includes another limited fishery subject to Board regulation, there is an argument that we have not fully met our statutory duties under the Limited Entry Act AS 16.43.200, which reads in relevant parts as follow:

The commission shall establish administrative areas suitable for regulating and controlling entry into the commercial fisheries. The commission shall make the administrative area reasonably compatible with the geographic areas for which specific commercial fishing regulations are adopted by the Board of Fisheries.

+ * *


The commission may modify or change the boundaries of administrative areas when necessary and consistent with the purposes of [the Limited Entry Act].

We will develop and publish a regulatory proposal for public comment. Of course, we will have to reserve judgment, until we have heard all the public testimony, as to whether the proposal is or is not consistent with the purposes of the Limited Entry Act. I can think of



competing analyses, and I am not sure about where this proposal will end up. But we can ensure that all sides are heard and fairly considered.

By Direction of the
COMMERCIAL FISHERIES ENTRY COMMISSION


Benjamin Brown, Commissioner
Bruce Twomley, Chairman

cc: The Honorable Sam Cotten
Commissioner, ADF&G



This is a public hearing on CFEC's regulatory proposal to modify CFEC's administrative area definition for the Northern Southeast herring spawn-on-kelp pound fishery.

Now I'd like to introduce fellow staff members sitting here with me. I have my Co-Commissioner (Benjamin Brown). We have our Law Specialist (Doug Rickey) and we have Head of our Research (Craig Farrington). And we are the folks in response to your testimony who are likely to be asking you questions. And so as we go forward if someone has a question if you'd just get my attention I'll acknowledge you for the record and so they know who's speaking.

Also before we begin I really want to extend a thank you to (Randy Lippert), (David Pierce), and (Ty McMichael) for helping make this work. You guys have done a splendid job. And we are also grateful to GCI and particularly (Julie Pierce) who has helped us through this process.

Now before we begin taking testimony I wanted to say just a few words about the procedure and our regulatory proposal to remove Sitka Sound from our administrative area of definition for the Northern Southeast herring spawn-on-kelp pound fishery. I mean, as you know, earlier board proposal 126 asked the Board of Fisheries to authorize open ponding as an alternative means for the Sitka Sound roe herring fishery.

Now proposal 126 is not at issue in this proceeding but it certainly was the catalyst for this proceeding and our proposal - the trigger that led to this hearing. And you'll notice that CFEC's proposal in front of you says nothing about proposal 126. Our proposal addresses only our area definition. And I wanted to tell you that we made this proposal for two reasons. And the first is that we were asked to do so by the Board of Fish and by the Department of



CDEC SITKA SOUND

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Confirmation # 21784507
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Law. And that's unusual but that request had a certain amount of force. We like to be good colleagues and cooperate where we can. But there's a second reason and that's actually what prepared us forward to make this proposal.

We took a look at our statutory authorization to define administrative areas at our statute with is AS 16 - Alaska Statute 16.43.200 says that the Commission shall make the administrative area reasonably compatible with the geographic areas for which specific commercial fishing regulations are adopted by the Board of Fisheries. And it further says that the Commission may modify or change the boundaries of administrative areas when necessary and consistent with the purposes of the Limited Entry Act.

So, I mean, for us the question that was raised was why did we define the area for Northern (rolunt) kelp to include Sitka Sound in the first place. And we went back to our records, asked our staff to search through what we had, and we could not find a stated reason for doing that. And of course the managers of Sitka Sound have never told us that they wanted to invite more participants in that fishery. It seems that there are plenty of demands there now.

And so we had to acknowledge that our current definition of Northern spawn-on-kelp may not have fully complied with our statute. We just didn't have a stated reason for having included Sitka Sound in that definition. And so we made this proposal and maybe you folks through your testimony can provide us with a sound reason for maintaining the definition or maybe not. It will - much of that will turn on your testimony.

But the thing that I would like all of you to note is that our proposal does not address the merits of proposal 126. And please note that however - whichever way CDEC decides on our proposal the Board of Fisheries could still take up proposal 126. And if the Board were to act favorably on proposal 126 then



CFEC ATKA SOUND
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CFEC would have to review the Board's action for consideration of whether the Board's action was consistent with the purposes of the Limited Entry Act under Alaska Statute 16.43.41(2). And the basic purposes for a Limited Entry that we'd have to have in mind are that Limited Entry is intended to serve conservation and prevent economic distress among fishermen and those depended upon them for a livelihood. That's the most basic standard we work with.

And another thing to keep in mind is that the Board has means and methods authority under Alaska Statute 16.05.251. In turn, the Limited Entry Act governing us Alaska Statute 16.43.950 declares – and I'm paraphrasing – nothing in the Limited Entry Act limits the powers of the Board of Fisheries including the power to determine the legal types of gear.

So the short of this proceeding is if the Board in the future acts favorably on Proposal 126 the Board's action will need to come back to CFEC and CFEC will have to determine whether the Board's action is consistent with the purposes of the Limited Entry Act to give it effect.

And so that's when CFEC will be called upon to address the merits. If this does come back to us of course you will all get notice – anyone interested will get notice – and have an opportunity to address the merits as well.

So I think we're ready to move forward with your testimony. And if you have questions I'd like you to raise the questions while you are testifying. And we're going to start first with a testimony of people who have traveled here and who are here in this room to testify to us. When we get through your testimony then we'll turn to the people who are lined up on the phone to give their testimony.



THE STATE
of ALASKA
LIEUTENANT GOVERNOR WALTER



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Commercial Fisheries Entry Commission

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Juneau, Alaska 99801-0200
Phone: 907.586.3100
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January 8, 2016

Tom Kluberton, Chair
Alaska Board of Fisheries
P.O. Box 115526
Juneau, AK 99811-5526

Re: Board of Fisheries Action on Southeast and Yakutat Finfish Meeting Proposal 126

Dear Chairman Kluberton:

As indicated we would in my letter to you of May 13, 2015, the Entry Commission developed and gave public notice of a regulatory proposal to exclude Sitka Sound from the administrative area for the Northern Southeast herring spawn-on-kelp pound fishery [20 AAC 05.230(a)(9)].

In addition to the usual public notice, CFEC sent an individual notice to all permit holders in that fishery, the Southern Southeast herring spawn-on-kelp pound fishery, and the Southeast roe herring seine fishery, inviting them to send written comments or appear at a public hearing on the proposal that was held at the Entry Commission offices in Juneau on November 6, 2015. The public comment period closed on November 13, 2015.

After due consideration, the Commission has decided to take no further action on the proposal, as we believe the record at this point does not support a change in the boundaries of the administrative area for the pound fishery.

When the Entry Commission considered a petition to limit the pound fisheries in Southeast Alaska in 1994, ADF&G Commissioner Carl Rosier sent us a memorandum regarding the Department's management and conservation concerns with the fisheries in the Hoonah Sound and Craig/Klawock areas. The Commissioner made clear the department's preference for either two large administrative areas (Northern and Southern) covering all of Southeast Alaska, or two



smaller administrative areas that would encompass Hoonah Sound and Craig/Klawock. The Entry Commission ultimately chose the first alternative and defined the Northern and Southern administrative areas as suggested in Commissioner Rosier's memorandum.

Nothing in our research or the public comment we received on this latest proposal convinces us that a change is needed at this time in the administrative area definition for the fishery that has been in place since 1995. If, however, the Board of Fisheries decides to go forward with Proposal 126 or something like it, we would reconsider the matter and examine whether allowing the Southeast roe herring seine permit holders to participate as pound fisherman would be consistent with the Limited Entry Act. Without prejudging the issue, I must tell you that, based on the overwhelmingly negative public comment we received, proponents of such a change will have a significant burden of persuasion.

I have copied this letter by email to Glenn Haight and attached copies of all public comment we received (letters and emails), as well as an unofficial transcript of the public hearing we held in Juneau on November 6, 2015. Virtually all of the public comment and testimony concerns Proposal 126 and, with the exception of those of its proponent Mr. Kapp, all comments were in opposition to the adoption of Proposal 126, mostly because of the potential negative economic effects on the existing pound fishery and its permit holders. It is also worth noting that not a single Southeast roe herring purse seine permit holder offered comment or testimony in favor of the proposal.

Please don't hesitate to contact me if you and have any questions regarding this matter.

Yours Truly,
Commercial Fisheries Entry Commission

Bruce Twomley, Chairman
Benjamin Brown, Commissioner

CC: Permit Holders (G01A, L21A, & L21C)
Sitka Tribe of Alaska
Southeast Alaska Seiners Association



MEMORANDUM

State of Alaska

Department of Law

TO: Glenn Haight
Executive Director
Alaska Board of Fisheries

DATE: March 4, 2016

FILE NO.: JU2015200517

FROM: Seth M. Beausang *SMB*
Assistant Attorney General

TEL. NO.: 269-5289

SUBJECT: Department of Law
comments on proposals
for the March 8-11, 2016
Statewide Finfish and
Supplemental Issues
meeting

The Department of Law has the following comments on the proposals to be considered by the Board of Fisheries at its March 8-11, 2016 Statewide Finfish and Supplemental Issues meeting:

Proposal 126: As we explained to the board last cycle, this proposal would allow Southeastern Alaska herring purse seine permit holders in Sitka to use open herring pounds in Sitka Sound in lieu of their seine gear. The Northern Southeast herring pound fishery is a limited entry fishery and includes Sitka Sound within the limited entry administrative area. In Southeastern Alaska, a "herring pound" can include an "open pound," which is defined in 5 AAC 27.130(e)(2). The board does not have authority to allow new entrants into the Northern Southeast herring pound limited entry fishery by allowing non-permit holders to use open pounds in the fishery. We understand from PC 16 that CFEC considered changing the administrative area of this limited entry fishery, in order to allow the board to act on this proposal, but that CFEC ultimately declined to change the administrative area. The board does not have the authority to adopt this proposal.

Proposal 194: Based on the statements in the proposal about the alleged impacts of trawl fishing on subsistence users in this area, the board is encouraged to consider

Matanuska-Susitna Borough



October 3, 2016

Board Support Section
Board of Fisheries
P.O. Box 115526
Juneau, Alaska 99811-5526

Re: Letter of Support for EF-F16-040: Identify rebuilding goals, objectives, and delisting criteria for stock of concern salmon within the Susitna and West Cook Inlet regulatory units.

Dear Board of Fisheries Members,

The Sustainable Salmon Fisheries Policy (SSFP) is found in Alaska regulation under 5 AAC 39.222. This regulation was developed because "... there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries" (a) (1). The policy lays out a myriad of things to be considered and incorporated in developing management plans for the various salmon stocks.

In section (d) (4), the policy states that "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 ... stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including (B) identification of salmon stock or population rebuilding goals and objectives; (C) fishery management actions needed to achieve rebuilding goals and objectives; (E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan ..."

The SSFP contains specific criteria which must be met before a salmon stock can be declared a stock of concern, along with definitions of the three levels of stock of concern (f) (5) (6) (21) (42). These criteria have been applied to all salmon stocks in the Northern District of Cook Inlet and, as a result, eight stocks have been declared stocks of concern at differing levels (seven Chinook and one sockeye stock).

Proposal EF-F16-040 clearly states why having procedures and criteria either in regulation or contained in the action plan developed to address the particular stock of concern are important to the public, the fisheries user groups, and the fisheries managers.


The proposal suggests establishing either a new section in regulation which establishes recovery plan criteria or stating the recovery plan goals, objectives and criteria in the action plan formulated for each salmon population declared a stock of concern. Since each population has unique characteristics, a "one size fit all" approach would not necessarily be appropriate. A regulation would need to be written in fairly broad and general terms to allow the full range of situations which could be encountered. Incorporating the recovery criteria in the action plan developed for the specific stock of concern salmon



population would require specific detail appropriate to that stock and might be the preferred way to address this oversight in the SSFP.

The approach the Board of Fisheries chooses to implement to address this situation is up to them. We only ask that this deficiency be addressed and corrected. The Northern District currently has 8 of the 14 declared stocks of concern statewide. With nothing in regulation or contained in the respective action plans, declaring when and how one of these stocks of concern has recovered is an unknown at this time.

Sincerely,



John M. Moosey
Borough Manager

cc: Matanuska-Susitna Borough Fish & Wildlife Commission
Matanuska-Susitna Borough Assembly



Submitted By
John Moosey
Submitted On
10/3/2016 9:40:33 AM
Affiliation
Mat-Su Borough

Phone
9707-861-8689
Email
John.Moosey@matsugov.us
Address
3250 E. Dahlia Avenue
Palmer, Alaska 99645

Letter of Support for HQ-F16-084 Incorporate Portions of the Sustainable Salmon Policy into Alaska Statute 16

Dear Board of Fisheries members,

On behalf of the Matanuska-Susitna Borough Fish & Wildlife Commission, I support in concept proposal HQ-F16-084-to Incorporate Portions of the Sustainable Salmon Fisheries Policy, (SSFP), AAC 39.222, into Alaska Statue 16. The Alaska fish habitat permitting process currently lacks criteria necessary to determine whether permitting decisions will adequately protect salmon populations and related fish habitat. The Board of Fisheries developed the SSFP to “ensure conservation of salmon and salmon’s required marine and aquatic habitat”. As referenced in the proposal, “elements of the SSFP should be incorporated in Title 16 and applied to ADF&G permitting decisions”.

I respectfully request the Board of Fisheries to formally request the legislature to incorporate portions of the SSFP into Title 16.

Sincerely,

John Moosey, Borough Manager



Submitted By
Tawni Neeser
Submitted On
10/3/2016 10:52:50 AM
Affiliation

Dear Board Fishery members,

My name is Tawni Neeser. I was born and have lived in Alaska my entire life. Fishing has been a family tradition for generations, and something we not only enjoy but we rely on. I'm writing to you in support of the proposed Title 16 amendments. I urge you to push for the legislature to adopt these changes.

As Alaskans, it is our responsibility to speak on behalf of the salmon and to protect them and their habitat. Additionally, we need to protect our environment. Fishing is a crucial source of income for the state, and one day I look forward to fishing our pristine Alaskan waters with my children and grand-children, and that they can do the same. Please consider these amendments for future generations of Alaskans.

Thank you for your time.



Submitted By
 Ryanne Tyler
Submitted On
 10/3/2016 1:39:13 PM
Affiliation

Phone
 (907) 696-1837

Email
 ryanne.tyler@hotmail.com

Address
 20231 Paul Revere Cir
 Eagle River, Alaska 99577

My name is Ryanne Tyler and as an Alaskan, salmon are important to my community as well as myself and the environment. Why are salmon important? They provide clean, healthy stream ecosystems even when we pollute them. They are also important as a food resource for several communities throughout the state, some even surviving off of them. In my community, the Eagle River runs straight through the town and was populated by many salmon in the past. However, over the years I have noticed a decline in salmon and not many people venture down to the river any more. People have to travel to far off rivers, such as the Kenai, in order to get their supply of salmon. We are blessed to live in a state that has such an abundance of salmon. But as our population grows, the salmon population decreases especially with people illegally fishing or polluting our rivers. What can we do about this? It's simple, really. Amend Title 16 with the Sustainable Salmon Policy as a guide for permitting projects in fish habitat. This could be a positive change to ensure healthy salmon habitat for generations to come.



Submitted By
Alexis
Submitted On
10/3/2016 2:33:06 PM
Affiliation
Lucassen

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Email
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Address
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Anchorage, Alaska 99501

Dear Alaska Board of Fisheries -

I am writing to encourage your recommendation of the proposed title 16 changes to the legislature. As a recent graduate of Gonzaga University in biology and environmental studies, I studied fisheries management and completed a summer internship doing salmon and ecosystem monitoring and research within the Wood-Tikchik watershed of Alaska. It is my belief that the attached proposal is necessary to preserve Alaska's pristine salmon runs, and prevent further damage.

In my hometown of Spokane, WA, tribes are fighting to return salmon to the area, but sadly, I believe this is a dream that will never come true due to dams and development that Washington state has become so reliant upon. As a new resident of Alaska, I love having a culture strongly rooted in fish and pristine habitat, and I don't want to see our salmon runs become what they are in Washington and elsewhere in the lower 48.

As an Alaskan resident and someone who has worked hands-on with Alaskan fisheries, I have a lot rooted in the success of this proposal, just as everyone else who lives and visits this state does. I hope that the Board of Fish accepts this proposal that will increase public awareness, define what "proper protection of fish and game" is and assume that all waters have fish habitat until proven otherwise.

Thank you for taking the time to hear what I have to say, and for your work to protect salmon.

Sincerely,

Lexi Lucassen



Submitted By
Eric Booton
Submitted On
10/3/2016 3:08:14 PM
Affiliation

Phone
3039814366

Email
eric.booton@westernalum.org

Address
1510 Nunaka Dr.
Anchorage, Alaska 99504

Hello Board of Fish members,

My name is Eric Booton, I live in Anchorage, and like many Alaskans, spend my spare time with a fly rod in my hand, chasing wild salmon and trophy trout. The river is where I find my peace and fishing is a cornerstone to my identity.

I am writing to urge you to support the resolution to update Title 16. Alaska stands alone as the last remaining salmon stronghold in the United States, featuring strong salmon runs and pristine habitat. Being the final frontier for salmon, we have the luxury of looking back on the costly mistakes that have been made throughout the Lower 48 and learn from them.

Habitat loss is the greatest contributing factor to the loss of anadromous fish runs and in Alaska it is imperative that we set high standards for protecting fish habitat.

Each year the State of Alaska issues thousands of permits for projects in critical fish habitat, without opportunity for public notice - being that the fish, wildlife and waters are reserved for the people of Alaska, it is only fair that the people should have the opportunity to weigh in on projects that will have a large impact on fish habitat and clean water.

To ensure our salmon runs are protected for the future, it is important that we update Title 16 to ensure Alaskans like you and me have a voice in permitting decisions and the Alaska Department of Fish and Game has the tools it needs to protect anadromous waters.

Under current fish habitat permitting law, only waters in the Anadromous Waters Catalog require a fish habitat permit for development - but seeing that Anadromous Waters Catalog is woefully incomplete since less than 50% of the waters in the state has been catalog - a wise improvement would be to assume that all waters are anadromous unless proven otherwise.

A strong and reliable fish habitat permitting process that carefully balances development and salmon, is critical the future of salmon in Southcentral Alaska, our economy that relies heavily on the fishing industry, and all Alaskans.

As an Alaskan angler, I support the Alaska Board of Fish's use of its authority to recommend to the Alaska Legislature that fish habitat permitting laws be strengthened as outlined in the resolution to update Title 16 and request that you take action at this work session.

Thank you for your time and consideration.

Eric Booton



Submitted By
Ryan Astalos
Submitted On
10/4/2016 12:34:27 PM
Affiliation

Phone
4407088147

Email
ryanasto1@gmail.com

Address
540 Irwin
Anchorage, Alaska 99508

My name is Ryan and I live in Anchorage but travel across the state to find great fishing spots and to have the ability to fill my freezer with wild salmon. I love being able to find these fishing spots in the Cook Inlet Watershed, whether it be dipnetting on the Kasilof or fly fishing on the West Cook Inlet. My favorite fish that I ever caught was a silver on the Chuitna and seeing that fish jump out of the water with a purple fly hanging out of it's mouth was just the biggest adrenaline rush. Because I care about these great opportunities, I felt passionate enough to share these stories with you. And beyond my love of fishing, I also have a biology degree and have the understanding that if we don't conserve salmon habitat then we run the risk of not being able to enjoy the fishing experiences that I shared. I also want to make sure that someday my kids can fish on the Chuitna like I have.

And for these reasons I support your action on the Stand for Salmon Proposal to strengthen Alaska's Fish Habitat Permitting. Title 16 surrounding fish habitat permitting has not been updated since statehood and as times change and bigger threats come to light, the state should adapt and strengthen this law. I would like the board to take into account the following requests; to ensure that public voice is heard when fish habitat permits are issued on a larger scale, such as the Chuitna coal mine or the Susitna Dam. I would like clear definitions of what a company has to do in terms of mitigation if they are to even think about disrupting salmon rearing habitat. I would also like the board to ensure that there are clear definitions of what it means to protect salmon habitat and what sufficient protections actually means. I would also like the board to make it so that it is assumed that every stream has anadromous fish unless otherwise noted, not the other way around. I would like to see these concerns brought to light to the legislature so that the vision of protecting salmon habitat is reflected in our laws. We have a huge culture in Alaska surrounding salmon through subsistence, sport and commercial fishing, let's make sure that our current and future generations can continue to eat, fish and enjoy salmon by protecting their rearing habitat.



Submitted By
Samantha Russell
Submitted On
10/4/2016 12:25:52 PM
Affiliation

Phone
907-232-6668

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russell.rabbits@gmail.com

Address
2650 N. Snowshoe Lane
Wasilla, Alaska 99654

Cook Inlet Salmon put food on my table, provide recreation and create thousands of jobs for Alaskans around the inlet. These annual salmon runs generate hundreds of millions of dollars in economic activity every year and sustain our unique Alaskan way of life. They really are what make Alaska great.

Alaska's constitution and Sustainable Salmon Policy were meant to provide strong protections for our state's unrivaled fisheries and guarantee residents a voice in the decision-making process. Despite these protections, our system fails to provide protections for our fisheries and often leaves Alaskan voices out of the process.

Please do everything in your power to protect Cook Inlet Salmon (and all other salmon) as well as MY voice and my children's voices when it comes to the future of Alaska's fish, water, and habitat.



Submitted By
James Tunnell
Submitted On
10/4/2016 11:33:09 AM
Affiliation
Chase Commuinty

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Talkeetna, Alaska 99676

Chase Community Council

Po box 205

Talkeetna AK. 99676

chasetrail45@gmail.com

To: Alaska Board of Fish

From: Chase Community Council

Date: October 3, 2016

Subject: Support for the Sustainable Salmon Proposal

Dear Members of the Alaska Board of Fish:

The Chase Community Council is the northern most-recognized community council in the Matanuska-Susitna Borough. The western boundary is the Susitna River from Talkeetna to Gold creek and our south and east boundary is the Talkeetna River to Disappointment Creek. We are affected by many permitting and development issues that impact Alaska fisheries in Cook Inlet. The Alaska railroad travels along the entire western boundary of our council area along the Susitna River and regularly proposes herbicide spraying along the tracks. We are the first community downstream of the proposed 730 foot Susitna –Watana dam. At the same time, our community includes prized hunting, fishing and recreational areas for Alaskans. For example, we include Clear Creek king salmon fishing and we are in GMU 13E. The value of these resources to our residents and to Alaskans has put us on the frontline of protecting our fisheries and wildlife habitat. We have found Alaska's permitting process to favor development interest over protection of the natural resources and services that support our community and our neighbors. The Susitna and Talkeetna Rivers provide food and transportation that support a lifestyle for this "off-the-road" community. The Susitna supports the 4th largest King salmon run in Alaska and we strongly support efforts to prioritize and protect this valuable resource.

The Sustainable Salmon Proposal is a step toward strengthening our ability to protect these valuable resources for our community and for Alaska. Please support passing this along to the legislature so we can discuss the merits of strengthening the visionary Sustainable Salmon Policy at a time when Alaskans will rely upon our constitutionally protected resource now more than ever in the state's history.

Sincerely,

James Tunnell

James Tunnell

Chair of the Chase Community Council



Submitted By
Alec Valdez
Submitted On
10/3/2016 5:22:00 PM
Affiliation

Hello -

My name is Alec Valdez. My weekends growing up were spent on the water fishing all the salmon Alaska has to offer. For Alaskans salmon is much more than just a food source or a natural resource - it's a way of life. Without salmon Alaska won't be the same.

We need to take proactive steps now, to invest in something that once it is lost, won't come back. If it is lost we won't be able to supply others with an important food source, our tourism will be slashed and it just won't be the same.

When projects are offered that pose a 20-30 year solution, we need to remember that those solutions are short term. The salmon we have run for as long as the world as been around - please remember that when I have a son I can take him to enjoy the same fun I have, with enough fish to fill the freezer. Please take a look at modifying title 16, to preserve Alaska's fish.