

## **On Time Advisory Committee Comment List**

Yakutat AC1

Sept. 11, 2012

Honorable Members of the Board of Fisheries,

The Yakutat area Advisory Committee met Sept. 7th, 2012 at 7 PM in the Yakutat High School auditorium to consider ACR 9, a proposal sent to you from the Tsiu River Coalition. After carefully considering the proposal as written, and the testimony given, a vote was called for. It was decided unanimously to oppose ACR 9, or any variation of it, based on it not meeting the criteria to be heard out of the Southeast Regional Board cycle. The following, more accurately reflects our reasoning for opposition.

Under the, "problem you would like Board to address", section; the proposal maker states that there exists a, "critical need for the Board of Fisheries to address the regulations governing both sport, and commercial fisheries on the Tsiu river." Proposal maker goes on to say that the changing course of the river has made it so the two fisheries, ' can no longer occur simultaneously without significant overlap in space, and significant conflict.

Yakutat Advisory Committee position is, all rivers meander in course, some faster than others. This is why the Alaska Department of Fish and Game monitors the Tsiu closely throughout each and every season. They currently have, and always have had the power to make any changes they feel are necessary by emergency order, should any real problems occur. This includes the power to move regulatory markers, which has been done historically, for reasons of conservation.

A 5 year average number of gillnets participating in the Tsiu would be 5 to 10. By all accounts, including the proposal maker's, the river is getting longer, not shorter. So, why then, is there a " critical" shortage of space, causing "overlapping, and conflict"? This year several representatives from the Alaska Department of Fish and Game have been on scene at the Tsiu, as well as police officers, and representatives from the City and borough of Yakutat, and as yet none have observed " overlapping, or conflict." in any capacity.

So what else would possibly constitute a "critical" or emergency need so acute as to take up this proposal out of cycle? Has the sport industry been affected in such a way that it is reflected in declining bag limits? Statistics don't indicate it. Has there been a decline in the number of sport users on the river over all? No more so than any other river comparatively, so this would appear to be attributable to simple economics. So then, how about the overall experience of the individual sportfisherman? There exist no documented complaints from any other lodges on the river or their clientele except for the proposal maker's. We have written testimony from Dierick's Tsiu River Lodge that states that his often multiple returning clientele are all quite satisfied, and often fish right nearby the commercial fishermen without any adverse incident. He states that he is, "adamantly opposed to any change in regulation, feels that both users are quite healthy and have plenty of access, and feels that the Alaska Department of Fish and Game is doing a remarkable job, given the Tsiu river system is by far the healthiest in the district."

Under the section what solution do you prefer? The proposal maker says, " I am proposing to change the area open to commercial harvesting on the Tsiu River, as follows."

Amend 5 AAC 30.350(12) as follows:

5 AAC 30.350(12) Tsiu River, upstream of ADF&G marker located downstream of Duck Camp Island and [an area to be determined by the Alaska Board of Fisheries.] The location of the marker will likely need to be adjusted on an annual basis but the purpose for location of the marker should be to provide for spatial segregation of the sport and setnet fisheries while providing a reasonable opportunity for both.

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Yakutat Advisory Committee position is; It's confusing whether this section of the proposal expresses the needs of "I", or the Tsiu River coalition it's self, but the simple answer is this. There is no need for, [ an area to be determined by the Alaska Board of Fisheries], that is what we have the Department for. They can, and have adjusted the regulatory markers for reasons of conservation. They haven't ever been used as means of segregation, because there is no factual basis to support it. Bag limits are getting filled, the numbers of clientele is stable, and the general overall happiness on the river seems to be stable at the majority of the lodges. It is interesting to note the use of the word "segregate" by the proposal maker, when not one of his proposals previous or current ever offers true segregation. He wants an area exclusive to sportfishing, AND be able to go into the commercial section of the river at will in every proposal.

Under the section of " How does this ACR meet criteria of

b) To correct an error in regulation:" The proposal maker states; "5 AAC 30.350(12) has existed in regulation for many years. The mouth of the river has moved approximately six miles over those years. The constantly shifting sands annually close one channel and open another. Over the course of the last 15 years the area above the established ADF&G marker has completely filled in and the area downstream of the area above the established ADF& G marker has completely filled in and the area downstream of the marker is the longest it has ever been. We suggest that the adoption of a regulation relying on placement of a static marker located on a reach of river where the channel location shifts significantly from year to year establishes an argument for the existence of an "error" in regulation.

c) At the time that this regulation was adopted it was unforeseen that the channel of the Tsiu River would shift to the extent that it has. Also unforeseen at the time that this regulation was adopted was the evolution of gear used to provide transport for the commercial fishery. The newer high horsepower jet drive outboard motors now utilized by commercial setnet participants have dramatically improved their ability to move about and within the entire reach of the Tsiu River. With today's 90 hp. jet drive outboard motors powering boats, commercial setnet fishermen first lay a net, then proceed to utilize the shallow draft capability of the jet boat to herd coho salmon into the net, pick the net, and move on to the next hole in a matter of 15 minutes. When you have five or six boats and 12-15 nets zig zagging all over and scrambling to get all they can during the opener, the participants in the sport fishery literally get pushed to the aside and then conflicts arise. There is nowhere for sport anglers to relocate to that is a refuge from the commercial setnet fishery and the jetboat rodeo. It is common for participants in the sport fishery to just stand there and take it when a net is anchored literally at their feet, told by the commercial fisherman to get out of the way, then a high powered jet boat roars in circles right where the sport anglers were casting a pole just minutes before. Due to changes in river morphology and adoption of newer technology, this is a completely new and unforeseen situation that did not occur when the regulation was adopted.

Yakutat Advisory Committee position is; b) Regulation allows for, and markers often do move according to where the department see fit to place them. The criteria for this placement has always been for reasons of conservation, and never has been for reasons of "segregation". This is not an error in the way the regulations have been written, or implemented. This is someone who wishes that the regulatory markers could be used for something other than what is specified in regulation. This does NOT constitute an error.

c) The holes, channels, and sands that constitute the Tsiu river were before regulation, as now, constantly shifting. This is not new. Technology has improved for commercial fishing, as it has for all forms of fishing, but close quarters between the user groups has not changed at all on the Tsiu. In fact, there is by far more room than ever there was. In years gone by, when the river was less than half the

overall length that it is now, economics and fish prices allowed for there to be 3 to 4 times the number of commercial participants in the Tsiu fishery than there has been in the last 6 to 8 years. There has been years when there was a net in every hole, from the markers, to the mouth, literally every 75 yards the whole length of the river. It was like this for decades. Jetboats and fish scaring were used then, as now, and yet the sport fishery thrived through it. Never a complaint one in all that time. Two distinct factors are overlooked here. 1) there always was, and exist today, far more resource than any user group can over utilize, and 2) there are 2, 24 hr. commercial openings per week, with a day off in between them, as per regulation. The other 5 days per week, the river is exclusive to sportsfishing. This does not take into account that every year there are scheduled days that commercial fishing doesn't occur do to weather, lack of ice, aircraft mechanicals, flooding, etc. 8, 24 hr. openings would be a banner season for commercial fishing at the Tsiu, of which the vast amount of total poundage is harvested in less than half of. The majority of sport users on the Tsiu are not likely to ever even witness commercial fishing. Commercial fishing hasn't changed in the way it has been conducted on the Tsiu since before statehood, nothing unforeseen about it.

What will happen if this problem is not solved prior to the regular cycle? The proposal maker states; "There will continue to be a disorderly fishery, unnecessary, escalating conflicts between user groups will continue and the economic, social and recreational value of the sport fishery will not be realized.

Yakutat Advisory Committee position; Again, we rely on statistics. Commercial fishing has taken place on the Tsiu since the 1930's. sportsfishing since the early 1980's, and in all the time since, they have coexisted. Both appear to be thriving. Baglimits are being caught, beds are being filled, none of the other lodges has come forth with a single complaint.

State why your ACR is not predominately allocative. The proposal maker writes; This ACR does not ask that fish be allocated or reallocated. This ACR asks that a reasonable opportunity to conduct safe, orderly and successful fisheries be established for both the sport and commercial setnet fisheries. This ACR asks that space be set aside for the sport and commercial setnet fishery. This ACR does not suggest that the commercial setnet fisherman catch a smaller proportion of the harvestable surplus of coho salmon of the Tsiu River origin. A review of historical harvest statistics suggest that this a reasonable approach. Fifty years ago the commercial harvesters had one mile of river; 25 years ago they had about three miles; and today there is 5 miles. So this proposal is not taking away area that the commercial setnet fishery traditionally fished. Plus, if you look at the catch numbers you will notice that no matter what the length of the river, the catch was consistently the same. In 2010, a dry year, they were restricted to just one mile and had the second largest catch of all time. Yes, the river can change and be shorter than today's current length. But with the EO authority in this fishery the boundary markers can be moved if extreme or unusual conditions warrant. From the viewpoint of the sport fishery....the area that was traditionally and historically available to sport fishing above the ADF & G marker has filled in with sand leaving no place to go to get away from commercial activities. To assert that establishing a boundary separating the sport and commercial fisheries on an annual basis is taking something away from the commercial users and allocating it to the sport users is a stretch. It is fixing a regulation that is flawed by the existence of a circumstance unforeseen when the regulation was adopted. And is actually getting the fishery back to the way it historically and traditionally operated. If this ACR is considered and the suggested remedy is adopted, then the situation will be better with ADFG annually establishing the gear boundaries.

The Yakutat Advisory Committee position; There is no other way to look at it. Lost fishing area will affect the commercial fishery in an adverse, and allocative manner. Yes, it is true that the same amount

of fish or more has been harvested in a smaller section of river, but it was generally done so by a much larger group of commercial fishermen, and at 3 times the current price. Economics at the Tsiu shifts as much as the sand, and play a predominate role in how the commercial fishery is structured on a year by year basis. Most recently, a small number of fisherman, has needed as much space as was legally allowed, to harvest as much fish as possible, with extremely low prices, to make as much money as they might have made with one hole, 15 years ago. The department decides where the regulatory conservation markers should go, monitors how many fish are getting above these for escapement goals, and allows for what is left to be harvested. To reduce that opportunity is simply taking money out of the pockets of the commercial fishermen, which by definition is very much allocative. Reference is made that the holes above the markers traditionally fished by sportfishermen have now dried up and no longer utilized, is not factual. Mr Dierick in written testimony states that he regularly utilizes these holes, even though they aren't quite as deep as they once were, especially when commercial setnetting is open. It is his position that the proposal maker's reasoning for not utilizing these holes is more based on logistics. He states that the lodge the proposal maker operates is many miles to the East of the Tsiu. The holes are on the West side, and all the way up river. In order to access them he would have to bring his clients farther, and across the river, and he simply doesn't want to.

Allocation very much is an issue with this ACR. 5 out of every 7 days of the week, the Tsiu River is exclusively a sport only river, and now one lodge owner wants an exclusive section of the river set aside for sport only on the remaining 2 days. Based on these findings, the Yakutat Advisory Committee asks that you not consider ACR 9, and take all this information into account when considering any future proposals pertaining to segregation on the Tsiu. If certain sport fishermen feel they can't be comfortable when commercial fishing is in effect and that segregation is needed, then perhaps they should simply take the day off on the day when commercial fishing is in operation.

Casey Mapes- Chairman Yakutat Advisory Committee.

## **Yakutat Fish and Game Advisory Committee meeting minutes Friday, September 7th, 2012**

**Meeting called to order at 7:12 PM.**

**Roll call. Present were,- B. Fraker ( sportfish guide, trapping rep), J. Fraker( sportfish guide, troller, hunting, trapping rep.), Martha Inderland ( subsistence rep. and YTT liason), Jonathan Pavlik( gillnetter rep.), H. Holcolm ( longline, troller, hunting rep.), R. Kerkovich ( Lodge owner, sportfishing rep.), Larry Bemis Jr. ( gillnet, trolling, subsistence rep.), Scott Chadwick ( sport guiding, hunting, trapping, rep. vice chair), C. Mapes ( trolling, gillnet, hunting, trapping rep. Chair)**

Absent were, - G Dierick ( lodge owner, sportguide rep.) Jerimiah Pavlik ( gillnet, hunting, trapping, rep.), Jesse Pavlik ( gillnet, longlining rep.), Sheri Nelson ( subsistence, gillnetting rep.), Loren Clark ( gillnetting, trolling) rep., D. Stone ( sportfishing rep., RAC committee liason)

Quorum established.

Also in attendance were, Greg Inderland, Lowell Peterson, Bill Lucy, Nevette Bowen, Russ Gordon, Wayne Ivers, and Perry Kohne.

Motion was made by S. Chadwick to respond in opposition as an Advisory Committee to ACR 9 ( a motion to address the Tsiu river commercial setnet fisheries sent in to be heard at the Spring, statewide Board of Fisheries.) Seconded by H. Holcolm.

Discussion; C. Mapes clarified that a workshop will be held by the BOF Oct. 9th to decide if ACR 9 meets the critrea to be heard out of normal cycle at the statewide meeting. It was stated that we have until Sept. 25 to respond. Each individual committee member stated that they clearly felt that criterea had not been met, that there was no emergency, or errors in regulation, and that an official response should be drafted up to convey this to the Board of Fisheries.

R. Kerkovich stated, In addition to ACR 9 not meeting the criteria to be heard out of cycle, he felt that the proposal maker had offered no realistic remedy to the issues as he saw them. "if you really felt that moving the commercial markers down river to make a sportfishing only zone wasimperative to separate the users, and avoid conflicts, why then wouldn't you include that there would be no sportfishing below these markers when commercial fishing was open? Based on the number of user days that each entity has realistically, on avg. 8 commercial 24 hr. openings VS. 40-50 sportfishing days, it seems clear that if there really is need to remedy conflicts, then sportfishing should be closed on the days when commercial is open."

All committee members agreed with this concept.

J. Pavlik stated that there had been exactly zero conflicts on the Tsiu this year, and that it simply amounted to one lodge manager feeling more entitled to resource than others. He also clarified that ACR 9 was very clearly allocative in nature as it would eliminate access to some of the most productive holes on the river to the commercial fishermen.

C. Mapes, Read a letter sent to the committee from Mr. Greg Dierick ( owner of Dierick's Tsiu River Lodge), that stated that he was opposed to any changes in regulations, and that his clientele were having no problems what so ever fishing around the commercial activity. He also

stated that he felt the perceived conflicts were inflated do to one lodge manager's desires for expansion.

C. Mapes stated that shortening the allowable area for commercial activity may work in a year when price only attracts 8 to 10 fishermen, prices fluctuate, and so does the number of commercial fishermen that participate. " If the price of fish goes up next year, and you've shortened the river, and 20 to 30 gillnetters show up to fish, well now there isn't room for all the commercial fishermen, and you wind up with a whole new set of conflicts, so any attempt to tamper with how and where the regulatory markers are placed, is clearly allocative.

At this point, the meeting was opened to public comments. G. Inderland stated that he felt that one possible idea to help remedy the situation would be to change the commercial opening structure from what it currently is; 12PM-12PM, to 6 AM-6AM. " By having noon to noon openers, there is the possibility for adverse interaction on 2 days for one 24 hr. opening. If we went to 6 AM to 6 AM, it would cut the possibility down to 1 day. It won't solve the perceived interaction but it would help." all agreed with this concept.

S. Chadwick pointed out that there are some good potential proposals for a future, appropriate board cycle, but that was not what was on the table. "We are here to decide how to respond to ACR 9."

Question was called for by S. Chadwick to oppose ACR 9 based on there being no emergency, or regulatory errors as stated, and that it would be highly allocative in nature, which clearly should negate ACR 9 from being heard at the statewide Board of Fisheries meeting.

9 - voted to oppose ACR 9 or any variation of it, due to it not meeting criteria, 0- voted to support ACR 9

Old Business;

C. Mapes informed the Committee that the request sent in to adjust the winter troll line to what it was originally suppose to have been adjusted to to avoid dangerous situations for trollers at the statewide meeting, was turned down by the Board of Fisheries for not meeting criteria.

H. Holcolm made motion to adjourn, B. Fraker seconded, 9 in favor, meeting was adjourned at 8:46 PM.

Casey Mapes- Chairman, Yakutat Advisory Committee