



THE STATE
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Department of Fish and Game

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February 12, 2020

Don Hernandez, Chairman
Southeast Alaska Subsistence Regional Advisory Council
1011 E. Tudor Road, MS121
Anchorage, Alaska 99503

Subject: Alaska Board of Fisheries 2018 Southeast Subsistence Shrimp Action

Dear Mr. Hernandez:

The Southeast Alaska Regional Advisory Council (council) letter of November 29, 2019, indicated concern over the Alaska Board of Fisheries (board) action at its January 2018 Southeast meeting related to Southeast subsistence shrimp harvest. This letter offers background and process guidance.

On three separate occasions in the letter, assertions were made regarding the Sitka Fish and Game Advisory Committee (Sitka AC). Specifically, the letter informs us the Sitka AC offered "concerns" over the board's action on District 13 subsistence shrimp, it was "attempting to pursue a review of the Board of Fisheries", and it would "like to see this matter in front of the public for more comments".

After a thorough review of the relevant transcripts provided to the Boards Support Section by the United States Fish & Wildlife Service (USFWS) Office of Subsistence Management (OSM) it is unclear if and when the Sitka AC offered any of this to the council. We understand at the October 17, 2018 council meeting that a member of the Sitka AC, Mr. Jeff Feldpausch, voiced concerns over the board's action. However, we found it is abundantly clear Mr. Feldpausch spoke to the council as a representative of the Sitka Tribe of Alaska and made no assertions he was speaking on behalf of the Sitka AC. Not only did the council's letter clearly misstate the source of these concerns, but to not copy either the Sitka AC or Sitka Tribe on the letter when making these assertions about their actions is worrisome.

Background

In December 2018, the Sitka AC sent an emergency petition to the board seeking it form a working group at the January 2018 Southeast Finfish and Shellfish meeting to address the dramatic declines in shrimp stock abundance in District 13C. At the meeting, the board worked with members of the Sitka AC and general public to arrive at a resulting regulation which set bag and possession limits on the subsistence fishery at 10-gallons per household and required harvest reporting.

In reviewing the discussion at the meeting by the board, it is clear there was great sensitivity to the same concerns expressed by the Sitka Tribe at the council's October 17, 2018 meeting. The board was concerned about creating a regulatory regime that inhibited reasonable opportunity for subsistence harvest, and to not limit subsistence harvest before limiting other uses.

In its discussion on this issue, the board rejected the idea of setting an annual limit because it was overly restrictive. In arriving at a reasonable bag and possession limit, it broke from deliberations to conduct additional discussions with stakeholders. In arriving at the 10-gallon bag and possession limit, the board recognized such a measure would allow for the collection of information that would help inform the setting of an amount reasonably necessary for subsistence (ANS), and would not be overly burdensome for users. The board also indicated it fully anticipated this issue to come back to the board at its next Southeast regulatory meeting with information from users that might inform future changes.

Documentation

For your convenience, below is a list of documents and references to meeting audio on this issue. All of this is contained on the board's 2018 Southeast meeting webpage here -

<http://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.meetinginfo&date=01-11-2018&meeting=sitka>.

1. Sitka Fish and Game Advisory Committee's recommendations to the board for the 2018 Southeast Shellfish and Finfish Meeting (AC5).
<http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/acs.pdf>
 - a. Sitka Advisory Committee Minutes, December 13, 2017, page 1, the subject is broached at the advisory committee meeting and scheduled for further review for December 14, 2017. (page 52 of 70)
 - b. Sitka Advisory Committee Minutes, December 14, 2017, page 1, the advisory committee discusses the issue and process options. The committee agrees to send a letter to the Board. This agreement is unanimous. (page 56 of 70)
2. Sitka Advisory Committee, December 14, 2017, Emergency Petition to the Alaska Board of Fisheries (RC25),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc025_Sitka_AC_Emergency_shrimp_petition.pdf.
3. Alaska Department of Fish and Game, January 10, 2018, memorandum regarding the Sitka AC's December 14 letter (RC26),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc026_ADF&G_Response_to_Sitka%20AC_petition.pdf.
4. Sitka Advisory Committee, Proposed regulatory language at Southeast Shellfish meeting (RC38),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc038_Stacey_Wayne_Sitka_AC_District_13_Emergency_Petition_Shrimp_regulation.pdf.

5. ADF&G, subsistence shrimp harvest information (RC44),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc044_ADF&G_Sitka_residents_shrimp_harvest.pdf.
6. Board member Jensen, draft board generated proposal (RC45),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc045_ADF&G_per_Jensen_shrimp_permit.pdf.
7. Tad Fujioka, public comment (RC69),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc069_Tad_Fujioka_District_13_subsistence_shrimp_fishery_comment.pdf.
8. Alaska Department of Law, comments (RC75),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc075_Dept_of_Law_additional_comments.pdf.
9. Stacey Wayne, proposed annual limit (RC77),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc077_Stacey_Wayne_Sitka_AC_proposed_annual_limit_for_shrimp_District_13.pdf.
10. Board of Fisheries Member Al Cain, regulatory language (RC82),
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2017-2018/se/rcs/rc082_ADF&G_per_Cain_BGP_RC045_as_amended_Sitka_shrimp_final.pdf.
11. During a committee of the whole, the board heard from participating stakeholders on this issue and voted to find an emergency, Meeting audio – 01-12-18 starting at 1:55:08PM,
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/swf/2017-2018/se_audio2/index.html#.
12. The board provided a regulatory solution which involved generating a proposal and later amending that proposal, Meeting audio – 01-14-18 starting at 11:02:23AM through 02:24:26pm,
http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/swf/2017-2018/se_audio2/index.html#.

Process Going Forward

There are several methods available to the council for bringing new subjects before the board, including a regular proposal, an agenda change request, an emergency petition, and a board generated proposal.

Most regulatory actions by the board come at its regular meetings where regulatory proposals are submitted in advance. The next regular Southeast Shellfish meeting is set for Ketchikan, January 4-16, 2021. The proposal deadline for this meeting is 5:00 p.m. April 10, 2020. For more information on submitting a proposal please go to <http://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.forms>.

At the beginning of each meeting cycle (cycles run from July 1-June 30), the board accepts agenda change requests (ACR). Deadlines for ACRs are 60-days prior to the board's October work session. An ACR is accepted if it not for a regulatory subject coming up during the current meeting cycle and meets

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criteria as determined by the board. This is not an option for this subject because this it is a regulatory subject for this upcoming regulatory cycle (Southeast finfish and shellfish).

An emergency petition, similar to that submitted by the Sitka AC, may be received at any time. Similar to ACRs, there are criteria the board will use to determine if there is an emergency. If the board finds there is an emergency, it will develop a regulatory remedy that is good for 120 days, unless made permanent by the board.

Finally, the board may generate a proposal at any public meeting. If the council wishes to ask the board to generate a proposal on this issue it can do so at any time. However, this action is limited to when the board is meeting, interest levels among board members, and a necessary 30-day legal notice that must be issued before action may occur.

For any of these options, specific language that is proposed to be changed is much appreciated by the board.

I hope the information in this letter helps to better inform the council on the historical record for the Sitka AC's official statements. Please feel free to contact Boards Support if you need assistance on how the council may, should it desire to, move forward in the Board of Fisheries process.

Sincerely,



Glenn Haight
Executive Director

cc: Jon Martin, Chair, Sitka Fish and Game Advisory Committee
Jeff Feldpausch, Sitka Tribe of Alaska
Thomas Doolittle, Acting Assistant Regional Director, US Fish and Wildlife Service / Office of Subsistence Management
DeAnna Perry, Southcentral Regional Advisory Council Coordinator Forest Service-Alaska Region, U.S. Department of Agriculture
George Pappas, State Subsistence Liaison, USF&WS/OSM
Ben Mulligan, Deputy Commissioner, ADF&G
Alaska Board of Fisheries