



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

**Bertrand Adams Sr., Chairman  
P. O. Box 349  
Yakutat, AK 99689**

March 22, 2012

RAC SE12003.BA

Mr. Tim Towarak, Chair  
Federal Subsistence Board  
c/o U.S. Fish and Wildlife Service  
Office of Subsistence Management  
1011 East Tudor Road, Mail Stop 121  
Anchorage, Alaska 99503

Dear Chairman Towarak:

Attached to this letter is the Council recommendation to the Federal Subsistence Board regarding the Kootznoowoo Inc. Extraterritorial Jurisdiction Petition. This recommendation was developed in a public forum during the evening of March 22, 2012. The Council did not provide an opinion on ownership of the submerged lands and marine waters in the area under consideration. The Council provided the following conclusion:

*The Council suggests that the resolution of ownership of marine waters is not a requirement to address the question of whether there is a meaningful subsistence priority for the harvest of sockeye salmon on Federal public land by the residents of Angoon.*

*The Council feels strongly that the resolution of the questions and concerns contained within the petition is not a Secretarial responsibility alone. The ultimate solution will require cooperation between the State of Alaska, the Federal Subsistence Program and local communities.*

The Council requests the Board forward this recommendation to the Secretaries.

The Council is honored to have had Mr. Blazer and Mr. Pourchot in attendance during the joint session of the Council meeting with the Board. Interest in the program empowers the Council and is much appreciated.

Any questions regarding this letter can be addressed directly to me or through Mr. Robert Larson, Council Coordinator, U. S. Forest Service, Box 1328, Petersburg, Alaska 99833, 1- 907-772-5930, robertlarson@fs.fed.us.

Sincerely,  
/S/

Bertrand Adams Sr.  
Chairman

cc:

Federal Subsistence Board

Arthur "Butch" Blazer, USDA Deputy Under Secretary for Natural Resources and Environment

Pat Pourchot, Special Assistant to the Secretary of the Interior for Alaska Affairs

Pete Probasco, Assistant Regional Director, OSM

Interagency Staff Committee

# Recommendation on Kootznoowoo Petition for Extraterritorial Jurisdiction

## Southeast Alaska Subsistence Regional Advisory Council March 22, 2012

### Introduction:

The Council met in concurrent session with the Federal Subsistence Board to hear the staff analysis and public testimony regarding the Kootznoowoo Inc. Petition for extraterritorial jurisdiction into Chatham Strait. The petitioner contends that management of commercial fisheries by the State of Alaska has interfered with sockeye salmon escapements and subsistence harvests in systems fished by residents of the City of Angoon, including the Eva, Hasselborg, Kanalku, Kook, and Sitkoh drainages, to such an extent as to result in a failure of the subsistence priority.

The following comments are the Council's interpretation, summary and recommendations for action by the Secretaries.

### Petition Requests:

The Kootznoowoo petition of May 10, 2010, requests Federal assertion of extraterritorial jurisdiction to restrict or close commercial fishing in marine waters of:

- 1) reserved Federal waters within and immediately surrounding Admiralty Island within the boundaries of Admiralty Island National Monument and Kootznoowoo Wilderness Area
- 2) reserved Federal waters three miles distant from the continental mainland and islands of Admiralty, Chichagof and Baranof
- 3) all marine waters and lands encompassed by "Angoon Territory," the defined boundaries of which are based on past use and current ownership

The petition supplement of June 15, 2011, requests:

- 1) reducing the harvest area adjacent to Hidden Falls Hatchery
- 2) closing all fishing districts in Chatham, Icy, and Peril Straits during June, July and the first two weeks of August
- 3) that "Kootznoowoo's rights, interests and quiet enjoyment of Federal lands and waters within Admiralty Island" be acknowledged, maintained and protected and that any current and continued enforcement efforts contrary to these be dismissed and discontinued.

### Office of Subsistence Management Identification of Issues

Has State management of the commercial purse seine fishery interfered with subsistence fishing on Federal public lands and associated waters to such an extent as to result in a failure to provide

the subsistence priority to Angoon residents. This issue can be separated into three distinct questions:

1. Is there a Federal subsistence priority for Angoon residents?
2. Does State management of the commercial purse seine fishery interfere with subsistence fishing on Federal public lands and associated waters?
3. If there is interference, does it occur to such an extent as to result in failure to provide the subsistence priority to Angoon residents?

### Council Findings:

There is no doubt that some sockeye salmon bound for streams used by residents of Angoon are intercepted by the commercial seine fishery operating in Chatham Strait. That is a reasonable conclusion because commercial fishery openings occur at the same time and in the same area where sockeye salmon of local origin are expected to migrate.

The total number or proportional contribution of sockeye salmon from these stocks to the Chatham Straits commercial fishery harvest is unknown. While the genetic stock database is generally complete, the commercial catch is not sampled for wild stock contributions.

The sockeye salmon streams in the local area are generally small in size with limited potential to provide for subsistence needs. In recent years, escapements in each of these five streams have likely been less than required to allow for returns within the natural range of sockeye production. Low estimates of sockeye fry densities and high estimates of prey species in the lakes support additional adult escapements. It is also likely that the demand for a 250 sockeye salmon per household annual limit for subsistence users will remain unfulfilled when adequate escapements are attained.

The geographic distribution of these streams force residents of Angoon to travel long distances over open waters to access the terminal areas of the five sockeye systems in question.

Subsistence fishing at these five systems occurs primarily in marine and intertidal waters near the mouths of these streams. There is little evidence of significant harvest in streams above the high tide mark. It appears that in addition to vagaries in natural production, management of the State mixed stock commercial seine fishery has the greatest effect on the State managed subsistence fishery in the terminal areas.

Critical habitat needs to be identified and addressed. Streams should be monitored each season, prior to sockeye returns to ensure that any blockages are removed. The Council supports the planning process currently in place to modify the natural barrier at Kanalku Lake. The falls will be altered to facilitate passage of sockeye salmon into the lake. Spawning areas need to be evaluated for quantity and quality. Some spawning areas are in need of rehabilitation.

### Response to Questions Posed by the Office of Subsistence Management:

Question 1:

The Federal Subsistence Board has determined that residents of Angoon have a positive customary and direct dependence upon salmon returning to the five lakes under consideration (Eva, Hasselborg, Kanalku, Kook, and Sitkoh) as a mainstay of livelihood and have a subsistence priority.

**Question 2:**

The commercial purse seine fishery in Chatham Strait is a mixed-stock fishery; sockeye salmon system specific harvest data is limited, but based on Kanalku Lake and Kook Lake sockeye salmon escapements and seine harvest diagrams (Figures 4A, 4B, 5A, 5B, 5C from the staff analysis) the staff report summary states, “It appears more likely than not that the commercial purse seine fishery is reducing the number of sockeye salmon returning to Federally managed waters”. The Council supports this conclusion.

**Question 3:**

Sockeye salmon migrate to spawn within the exterior boundaries of the Tongass National Forest. Federal nexus extends into the marine waters of Southeast Alaska. Sockeye salmon subsistence fisheries at Eva, Hasselborg, Kanalku, Kook, and Sitkoh Lakes have historically occurred primarily in State waters and these fisheries are managed by the State. Subsistence sockeye salmon fisheries occur adjacent to Federal public land and on Federal public land. Sockeye salmon rear and return to spawn on Federal public land. Although there is interference, the proportion of fish harvested on Federal public land and the extent of this interference to the Federal fishery has yet to be determined. Based on public testimony, subsistence needs by the residents of Angoon are not being met at Kanalku Lake and this condition has failed to provide for the subsistence priority of Angoon residents.

**Conclusion:**

The Council suggests that the resolution of ownership of marine waters is not a requirement to address the question of whether there is a meaningful subsistence priority for the harvest of sockeye salmon on Federal public land by the residents of Angoon.

The Council feels strongly that the resolution of the questions and concerns contained within the petition is not a Secretarial responsibility alone. The ultimate solution will require cooperation between the State of Alaska, the Federal Subsistence Program and local communities.

**Recommendation:**

Defer extending Federal jurisdiction into waters of Chatham Straits, as recommended by the petition, for three years. Deferring action by the Secretaries to extend Federal jurisdiction into the marine waters of Chatham Strait will provide an opportunity for the State of Alaska, the Federal subsistence management program, and local residents and organizations to achieve the following milestones and management actions. The Council believes these actions will address the issues raised by Kootznoowoo Inc. and facilitate a solution developed at the local level.

Amend the Northern Southeast Alaska Seine Fishery Management Plan and the Hidden Falls Hatchery Management Plan to include accommodations for the State and Federal subsistence fisheries.

Close the commercial seine fishery areas in regulation that have been closed by State Emergency Order near Basket Bay and Kootznoowoo Inlet.

The Federal subsistence program and the Alaska Department of Fish and Game will assist the community of Angoon in developing a regulatory proposal for the State Board of Fish at the next regular cycle to change the Amounts Necessary for Subsistence finding to a community level rather than a Juneau management area designation.

It is advantageous for evaluation of the success of the management plan if escapement goals for Kanalku, Kook, Sitkoh, Hasselborg, and Eva Lakes are developed. Genetic stock identification programs and escapement goal studies by the State of Alaska in cooperation with the Federal subsistence management program will be implemented within three years.

The Federal subsistence program contact and cooperate with Kootznoowoo Inc. concerning the application of ANILCA.

The Council requests the Secretary provide annual progress reports to the Council and the Subsistence Board regarding these recommendations.