



Unit 2 Deer Planning Process

A Report from the
Southeast Alaska Subsistence
Regional Advisory Council
to the Federal Subsistence Board

April 2006

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Acronyms

ADFG	Alaska Department of Fish and Game
ANILCA	Alaska National Interest Lands Conservation Act
FY	Fiscal year
GMU	Game Management Unit
OSM	Office of Subsistence Management
USDA	United States Department of Agriculture
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service
WIS	Wildlife Information Studies
WRMP	Wildlife Resource Monitoring Program

Executive Summary

In 2004, the Southeast Alaska Subsistence Regional Advisory Council initiated a cooperative planning process to address contentious deer management issues in Unit 2 in Southeast Alaska, including Prince of Wales Island. The planning process was conducted by an advisory subcommittee of the Council, including hunters, users and managers of deer. The subcommittee worked together to address conflicts related to deer management in Unit 2, including the concern expressed to the Council and the Federal Subsistence Board that subsistence deer hunters in Unit 2 were not able to harvest enough deer to meet their needs.

The Alaska National Interest Lands Conservation Act requires that “rural” residents be given priority over “nonrural” residents to subsistence resources on Federal public lands. For harvesting deer in Unit 2, rural residents of Units 1(A), 2 and 3 (which include residents of Prince of Wales Island, Saxman, Petersburg and Wrangell) have been found to have customary and traditional users of deer in Unit 2 and are considered by the Federal subsistence program to be “federally qualified” to receive this subsistence priority. Since 2003, to better provide for the subsistence needs of federally qualified subsistence hunters, the Federal Subsistence Board has placed certain restrictions on deer hunting by non-federally qualified hunters in Unit 2. These restrictions have primarily affected hunters who live in Ketchikan, who are considered to be nonrural residents, do not have a positive customary and traditional determination, and are therefore *not* federally qualified subsistence hunters for Unit 2 deer. The restrictions on non-federally qualified hunters have been controversial.

The 12-member Unit 2 deer planning subcommittee included residents of Craig, Hydaburg, Ketchikan, Petersburg, Point Baker and Wrangell, and representatives from State and Federal wildlife management agencies, and reflected the range of users of Unit 2 deer. The subcommittee developed advisory recommendations at a series of six public meetings held in communities that depend upon Unit 2 deer. Both federally qualified deer hunters and non-federally qualified deer hunters participated at these meetings.

In February 2006, the subcommittee reported its consensus advisory recommendations to the Regional Advisory Council. At its February 2006 meeting, the Council endorsed the subcommittee’s advisory recommendations, with modification to the recommended action related to current management of the deer harvest (Action 7.) This report presents the Council’s recommendations regarding Unit 2 deer management, which have resulted from the cooperative planning process.

The Unit 2 deer planning process was effective in developing recommendations that will support and improve Unit 2 deer management decisions, and began very constructive dialogue between the various users of Unit 2 deer. The success of the process was largely due to the contribution of volunteer time and attention of the subcommittee members, strong staff support by Federal and State agencies, and substantial public input.

For the next three to five years, the Council is recommending:

- Focus on substantially improving data and information about Unit 2 deer harvest, deer population trends, and the subsistence use of and need for Unit 2 deer (Actions 1-4).
- No major changes to Unit 2 deer harvest management. Minor adjustments may be needed to respond to regulatory proposals or to better meet subsistence needs. Adjustments recommended by the Council include the following:
 - Reopen deer hunting on federal lands on the southeast portion of Prince of Wales Island from August 1-15 for non-subsistence hunting, beginning in 2006 (Action 7D-1).
 - Close federal lands on the western/outer islands from August 1-15 for non-subsistence hunting, beginning in 2006 (Action 7D-2 and 7D-3).
 - Provide the opportunity for federally qualified hunters to harvest a fifth deer in Unit 2 by federal permit, under specified conditions.
- Work to increase the deer population in Unit 2 by expanding a USFS program to restore and rehabilitate young growth forests on federal land for the benefit of deer, and implementing alternative commercial timber harvest methods on future timber sales that may provide greater benefit to deer (Actions 9-10).

For future years, the Council has recommended deer harvest management tools that could be applied in Unit 2 as deer population trends and hunting use patterns change (Action 8). The degree to which these tools would be employed would be decided through the established public regulatory processes.

Recommendations that would require a Federal or State regulation change must be approved by the Federal Subsistence Board or Alaska Board of Game before they can take effect. Recommendations concerning land use or habitat management could be implemented by Federal land managers without regulatory action.

When feasible, the Federal Subsistence Board supports cooperative efforts such as the Unit 2 deer planning process, in which local hunters and fishers work together and with agency managers to develop solutions to resource management problems in their areas. In the Board's experience, this approach to participatory fish and wildlife management facilitates public support for regulatory actions and complements the proposal-driven regulatory process.

1.0 Introduction

Sitka black-tailed deer, *Odocoileus hemionus sitkensis*, are highly-valued by the many hunters who harvest deer each year from Prince of Wales Island in Unit 2, Southeast Alaska (Figure 1). Conditions for deer and hunters are changing rather dramatically on the island, as improved ferry and road access bring more hunters to more areas of the island, and regenerating harvested forests enter a stage of forest growth that produce fewer deer. Climate change may alter deer habitat, as well as late season hunting conditions.

Changing conditions often brings conflict, and management of the deer hunt in Unit 2 has been contentious in recent years. Federal law, the Alaska National Interest Lands Conservation Act (ANILCA), requires that rural residents with positive customary and traditional use determinations be given priority to subsistence wildlife and fish resources on Federal public lands in Alaska (Appendix A). For harvesting deer in Unit 2, rural residents of Units 1(A), 2 and 3 (which include Prince of Wales Island, Saxman, Petersburg and Wrangell) have positive customary and traditional use determinations and are considered by the Federal Subsistence Program to be rural residents who are “federally qualified” to receive the subsistence priority under ANILCA, while most residents of Ketchikan are considered to be nonrural and are not federally qualified to receive a subsistence priority.¹



Sitka black-tailed deer. Photo credit: USDA-FS – Sandy Frost.

Many federally qualified subsistence hunters who have traditionally hunted deer on Prince of Wales Island testified to the Council and Federal Subsistence Board at meetings over the 1996-2004 time period that their subsistence needs for deer were not being met, and they were no longer able to harvest as many deer with the level of effort they are accustomed to using. They expressed concerns about increasing competition with non-federally qualified hunters (primarily from

¹ In 2006, the Federal Subsistence Board is reevaluating which areas of Alaska should be designated as nonrural under ANILCA. The Southeast Alaska Subsistence Regional Advisory Council has recommended to the Board that Ketchikan be designated as rural, which would qualify Ketchikan residents as subsistence users of deer in Unit 2.

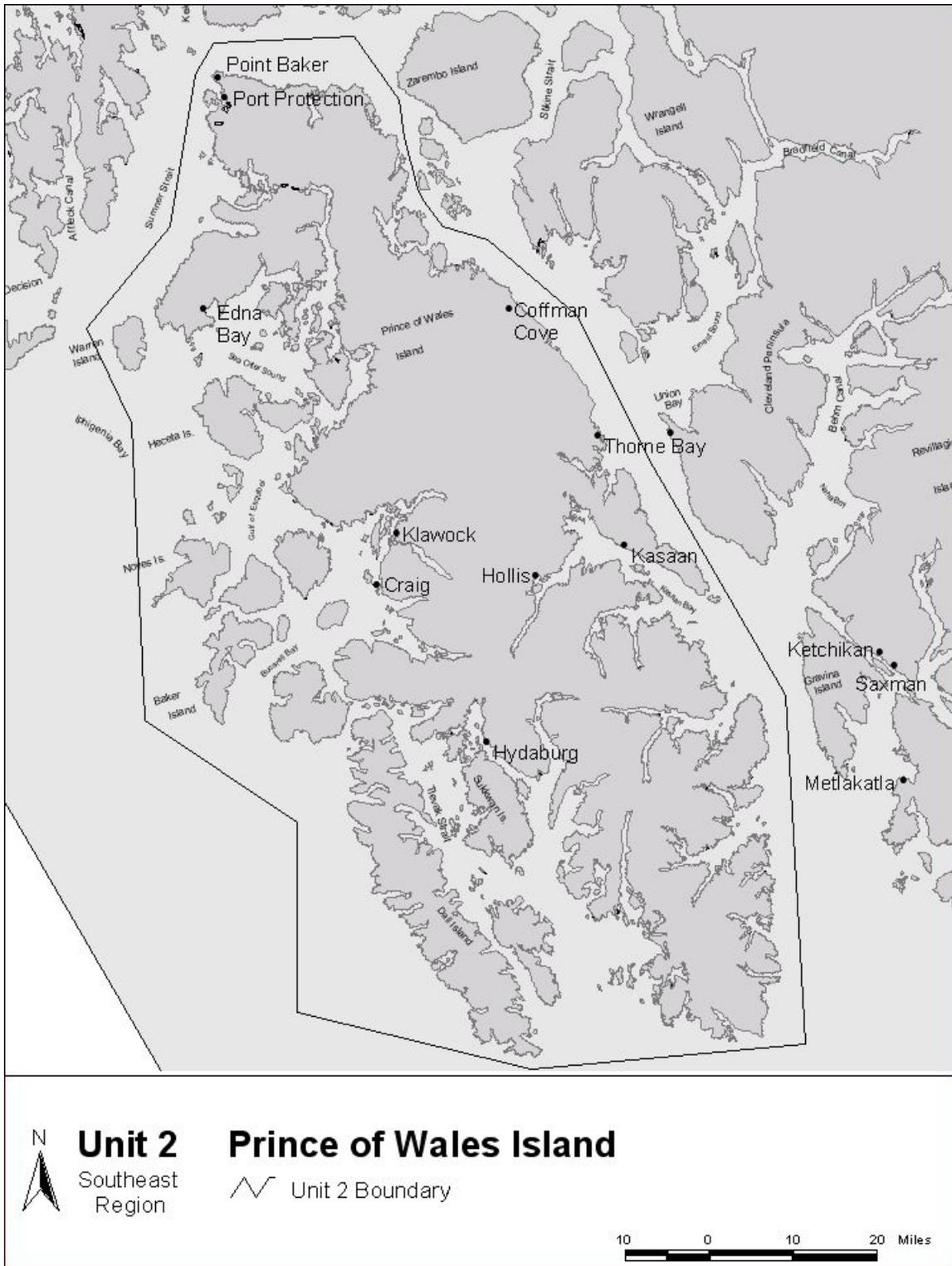


Figure 1. Location of Unit 2 in Southeast Alaska, including Prince of Wales Island and western/outer islands.

Ketchikan), possible declines in deer population, and the near certainty that pressure on both the deer resource and the hunting experience will increase on Prince of Wales Island in the future. In response, Ketchikan residents who hunt deer on Prince of Wales Island are concerned about seasonal restrictions placed on non-federally qualified hunters on Federal public lands on the island since 2003, and some rural communities on Prince of Wales Island have concurred that seasonal restrictions on Ketchikan deer hunters are not warranted.²

To address the concerns related to use of Unit 2 deer for subsistence and by non-federally qualified hunters, the Southeast Alaska Subsistence Regional Advisory Council initiated a management planning process for Unit 2 deer in 2004. This document is the final report from that planning process. The report includes:

- Description of the need and goal for Unit 2 deer management planning.
- Description of the Unit 2 deer planning process, conducted by an advisory subcommittee of the Regional Advisory Council in 2004-06.
- Regional Advisory Council's recommendations to the Federal Subsistence Board and others regarding Unit 2 deer management.

This Final Report conveys the final recommendations of the Southeast Alaska Subsistence Regional Advisory Council to the Federal Subsistence Board regarding Unit 2 Deer management.

2.0 Unit 2 Deer Management – Background and Goal for the Planning Process

From 1997-2004, the Federal Subsistence Board received over 30 proposals for changes to deer hunting regulations applicable to Unit 2. Most proposals stated that federally qualified subsistence deer hunters were not able to harvest enough deer to meet their subsistence needs and asked for restrictions on hunting by non-federally qualified hunters. The public testimony given by both federally qualified hunters and non-federally qualified hunters during the Board meetings was prolonged and often contentious.

The Federal Subsistence Board adopted regulatory changes to attempt to resolve the conflicts. In 2003, the Federal Subsistence Board opened a new week-long deer hunt, from July 24-31, for federally qualified subsistence hunters on Federal public land in Unit 2. The Board also closed Federal public lands on Prince of Wales Island to non-federally qualified hunters for the first three weeks of August. In 2003, harvest data collected by the USFS showed that 189 deer were harvested during the last week of July and 170 deer were harvested in the month of August, demonstrating that federally qualified subsistence hunters were making use of the early deer hunting season.

² Hollis Community Council, and East Prince of Wales Fish and Game Advisory Committee (representing Thorne Bay, Coffman Cove and Naukati).

In 2004 and 2005, at the recommendation of the Council, the Board kept the late July opening for federally qualified deer hunters on Federal public land in Unit 2, but shortened the August closure on Federal public land on the island to August 1-15. Non-federally qualified hunters were able to hunt on Federal public lands on Prince of Wales Island from August 16-December 31 in 2004 and 2005. Harvest data for 2004 and 2005 showed that federally qualified deer hunters continued to make use of these early opportunities to harvest deer.

The regulations in place in 2003 and 2004 gave federally qualified subsistence hunters an opportunity to better meet their needs for deer early in the season with less competition from non-federally qualified hunters. However, the restrictions placed on non-federally qualified deer hunters continued to be controversial.

In addition, the Regional Advisory Council anticipates that there will be increasing pressure on the Unit 2 deer resource and potential for conflict among deer users in the future. The “demand” for deer is expected to increase with improved access to and on Prince of Wales Island and the island’s demographics change, and the “supply” of deer is expected to decrease as the regenerating forests on thousands of acres of clear cuts provide less productive habitat for deer. The magnitude of the potential deer population decline due to habitat changes is difficult to estimate. Winter weather and wolf and black bear predation also affect deer abundance on the island.

To address the continuing concerns regarding management of deer in Unit 2, and to prepare for future changes in the many factors affecting the deer population and hunting in the unit, the Regional Advisory Council initiated a planning process in February 2004. The Council set the following goal for the process:

Unit 2 Deer Planning Process Goal: The goal of the deer management planning process for Unit 2 is to recommend a subsistence-based management approach for deer in this Unit. The recommended approach will be reported through the Council to the Federal Subsistence Board. This management approach will need to ensure the long term conservation of the Unit 2 deer populations, allow subsistence users to meet their needs as provided in ANILCA, account for the habitat and other ecological changes that may affect the deer population over time, recognize the changes in access and demography that may change subsistence and other demands for deer, and minimize adverse effects on non-subsistence hunters who also rely on Unit 2 deer populations. This management approach will include public education on deer management and habitat issues, and on the subsistence protections found in ANILCA.

3.0 Unit 2 Deer Planning Process

The Regional Advisory Council determined that planning for Unit 2 deer management could be done most effectively by a subcommittee of the Council, which would provide advisory recommendations to the full Council. The Regional Advisory Council

established the subcommittee in 2004, with the approval of the Federal Subsistence Board.³ The planning process followed by the advisory subcommittee during 2004-2006 is described in the following section.

The subcommittee's advisory recommendations regarding Unit 2 deer management, with some modifications by the Council, formed the basis of the Regional Advisory Council's recommendations in this Final Report. The subcommittee provided interim reports to the Council in February and October 2005, and presented the complete set of its advisory recommendations at the Council's February 2006 in Saxman. At that meeting, the Council adopted the final recommendations for Unit 2 deer management which are presented in this Final Report (Section 4.0).

3.1 Unit 2 Deer Planning Subcommittee

The Unit 2 Deer Planning Subcommittee was tasked with recommending to the Regional Advisory Council a subsistence-based, publicly supported management approach for deer in Unit 2 that will ensure the long-term conservation of Unit 2 deer, maintain the rural subsistence priority provided by ANILCA on Federal public lands, and minimize adverse effects on non-federally qualified hunters who also rely on Unit 2 deer. The subcommittee's recommendations were advisory to the Council.

The 12-member subcommittee included residents of Craig, Hydaburg, Ketchikan, Petersburg, Point Baker and Wrangell, and representatives from the Alaska Department of Fish and Game (ADFG) and the USDA Forest Service (USFS). Subcommittee members were selected to reflect the range of deer users and perspectives, including federally qualified subsistence hunters and non-federally qualified hunters, Tribal representatives, guides, and agency wildlife managers. Three members, including the Chair, and one alternate member are also members of the Southeast Alaska Subsistence Regional Advisory Council.

The subcommittee worked to develop advisory management recommendations for Unit 2 deer at a series of six public meetings held between November 2004 and February 2006 in communities that depend upon these deer. There was public

Unit 2 Deer Planning Subcommittee	
<u>Public Representatives:</u>	
Don Hernandez, Chair	Point Baker/ Petersburg
Mike Douville	Craig
Dolly Garza	Ketchikan
Elena James	Craig
Johnnie Laird	Ketchikan
Tony Christianson	Hydaburg
Tom Sims	Wrangell
Tom Skultka	Ketchikan
A.J. Slagle	Ketchikan
Mike Bangs (alternate)	Petersburg
<u>Agency Representatives:</u>	
Greg Killinger, USFS	Craig
Doug Larsen, ADFG	Juneau

³ The Federal Subsistence Board and Southeast Alaska Subsistence Regional Advisory Council have subsistence management responsibilities on Federal lands under ANILCA.

participation from both federally qualified subsistence deer hunters and non-federally qualified hunters at these meetings.

The subcommittee heard technical presentations by state and federal agency wildlife and land managers, listened to and considered public testimony, discussed the issues involved with managing Unit 2 deer, and reached consensus agreement on a suite of advisory recommendations that were presented to the Regional Advisory Council for their consideration.



Unit 2 Deer Planning Subcommittee meeting. Photo credit: USDA-FS – Steve Kessler.

3.1.1 Public Involvement at Planning Meetings

Subcommittee meetings were held in Craig (2 meetings), Ketchikan (2 meetings), Wrangell and Thorne Bay. All subcommittee meetings were advertised and open to the public. People testified about Unit 2 deer issues at each meeting. There was a wide range of public testimony, from both federally qualified and non-federally qualified hunters. Appendix B provides a summary of public comments heard at the Unit 2 planning meetings.



Thorne Bay public meeting hosted by Unit 2 Deer Planning Subcommittee, March 16, 2005. Photo credit: USDA-FS – Steve Kessler.

3.1.2 Technical Presentations at Planning Meetings

The subcommittee received technical presentations and in-depth written information on a wide range of topics that affect the present and future management of deer in Unit 2, including subsistence management, Unit 2 deer harvest, deer population trends and biology, forest ecology, enforcement and other topics. Technical presentations at subcommittee meetings included:

Subsistence Management & Regulatory Background

- ANILCA Title VIII – Presentation of the requirements of ANILCA, Title VIII, which establishes a priority for subsistence use of fish and wildlife resources over other types of consumptive uses on public lands. (Dave Johnson, USFS, November 2004).
- Federal Subsistence Board Review of WP03-05 – Overview of the staff report prepared in May 2003 for the Federal Subsistence Board’s consideration of proposal (WP03-05) to establish a one-month closure of Federal public lands on Prince of Wales Island to nonrural hunters, and a reduction in harvest limit for nonrural hunters. The proposal was amended to close Federal public lands on Prince of Wales Island for part of August. A related proposal (WP03-04) was passed by the Board in 2003 to provide for a one week in July Federal registration hunt. (Matt Moran, USFS, November 2004).

- Legal Analysis of Questions Related to Subsistence Priority for Unit 2 Deer – Analysis of general questions regarding whether or not the taking of deer in Unit 2 for subsistence uses may be restricted without first eliminating the non-subsistence taking of such deer. The analysis indicated that Title VIII requires that subsistence hunters have a meaningful preference over non-subsistence hunters in regard to Unit 2 deer, and allows for the balancing of subsistence, conservation and non-subsistence hunting which may, depending upon the particular circumstances present in Unit 2, allow a restriction of subsistence harvest without first eliminating all non-subsistence uses. (See Appendix C, memo from James J. Ustasiewski, USDA Office of the General Counsel, to Steve Kessler, Regional Subsistence Program Leader, USFS, March 14, 2005).

Unit 2 Deer Harvest

- Permit & Harvest Data
 - Review of Federal data from the Unit 2 federal registration hunt for 2003-04 recorded 744 deer harvested by Federal registration permit, including 77 female deer. (Matt Moran, USFS, November 2004).
 - State harvest data from 1980-2003 show harvests increasing in the 1980's, peaking in 1990's and declining since 2001 to a low of 1,783 deer harvested in 2003. Ketchikan hunters took approximately 1/3 of deer harvested in Unit 2. ADFG noted that its harvest data for 2002 and 2003 were lower, since many hunters obtained Federal subsistence registration permits rather than state deer harvest tickets, so were no longer represented in the state harvest survey. (Boyd Porter, ADFG, November 2004; updated harvest numbers February 2006).

Unit 2 Deer Population Trends

- Deer Population and Trends
 - Summary of results of ADFG deer pellet surveys on Prince of Wales Island since 1983. Pellet data are useful indices only of long-term trends, and can vary greatly in a particular area from year to year due to weather conditions, habitat changes, and changes in deer population. Pellet data from Prince of Wales Island suggested varied trends, with some watersheds showing stable or increasing deer populations, and others suggesting declines. However, ADFG deer pellet data do not suggest a significant change in deer population between 1990 and 2004. There is no overall estimate for deer population on Prince of Wales Island. (Boyd Porter, ADFG, November 2004)
 - Information about population and harvest information needs, possible approaches to collecting that data, and the strengths and weaknesses of different methods of data collection regarding deer population. (Dale Rabe, ADFG, December 2004, January & March 2005).

- Deer Habitat and Predator/Prey Effects – Information about deer habitat carrying capacity and predator/prey relationships. Habitat carrying capacity for deer is declining on Prince of Wales Island as clear cut areas grow into a less productive young growth forest stage, causing a likely decline in deer production. Wolves, bear and people are all significant predators on Unit 2 deer. (Dave Person, ADFG, November 2004).
- Improved Data on Deer Populations and Trends
 - Proposed process to develop a protocol to use DNA analysis of surveyed deer pellets to estimate deer population abundance and monitor trends on Prince of Wales Island, developed jointly by ADFG (Dave Person, Principal Investigator), the USFS Pacific Northwest Research Station (PNW), and the University of Alaska. (Winston Smith, USFS PNW, March 2005).
 - Presentation of alternative methods that could be used to monitor deer populations, including check-stations established at strategically located points on Prince of Wales Island. (Steve Fadden, USFS, March 2005).

Unit 2 Subsistence Use and Need for Deer

- Existing Data on Subsistence Uses & Needs – Review of existing information available about Unit 2 subsistence deer harvests and subsistence needs, and recommended approaches to collecting and applying additional information. (Bob Schroeder, USFS, December 2004, January & March 2005).

Forest Management – Opportunities to Improve Deer Production

- Young Growth / Habitat Changes: Implications for Future Management – Information about the history of timber harvest on Prince of Wales Island, focusing on Federal land, and the potential for pre-commercial and commercial thinning of young growth forests (15-30 years after harvest) to improve wildlife habitat and benefit wildlife. (Pat Tierney, USFS & Tom Hanley, USFS PNW, November & December 2004; Greg Killinger and Gary Lawton, USFS, February 2006).

Prince of Wales Island Access

- USFS Access and Travel Management Planning – Presentation regarding USFS planning to determine which roads on Prince of Wales Island should remain open to high-clearance vehicles, which to off-road vehicles, the level of maintenance and other access management issues. (Jack Oien, USFS, December 2004; Greg Killinger, USFS, February 2006).
- Interisland Ferry Authority (IFA) Access – Discussion of the existing Ketchikan-Hollis IFA ferry service and plans to operate Petersburg/Wrangell-Coffman Cove ferry service starting in spring 2006. (Delores Owen, IFA, November 2004).

Law Enforcement

- Enforcement – Presentations and discussion about law enforcement efforts and challenges, and opportunities to improve regulations to improve enforcement and reduce hunter inconvenience and confusion. (Lead Law Enforcement Officer Ken Pearson & Patrol Captain Richard Shreffler, USFS (USFS Law Enforcement staff were present at all meetings) and Sgt. Bernard Chastain, Alaska State Troopers (December 2004).

Public Information

- Public Information Approaches and Tools – Examples of public outreach approaches and tools for Unit 2 deer management and ANILCA education. (Memo from Maureen Clark, OSM, April 2005).

3.1.3 Subcommittee Advisory Recommendations to the Council

The subcommittee debated and discussed technical, social and policy issues intently, as it worked toward developing a suite of recommended actions regarding Unit 2 deer management, to advise the Regional Advisory Council. Through facilitated discussion, all subcommittee members were able to contribute their thoughts, concerns and ideas for full discussion.

The recommendations of the subcommittee were approved by consensus of its members, including the agency participants. The subcommittee defined “consensus” to mean that each member could support the intent and language of each recommendation. The subcommittee’s ground rules did provide for use of a vote by non-agency members, if that was requested by a subcommittee member in absence of a consensus, but the voting provision was not used.

3.2 Regional Advisory Council Action on Unit 2 Deer Planning

The Southeast Alaska Subsistence Regional Advisory Council met in Saxman on February 27 – March 3, 2006. The Council heard a presentation of the report and advisory recommendations from the Unit 2 deer planning subcommittee, provided by the subcommittee’s Chair. The Council voted to accept the subcommittee’s recommendations, with a modification to the recommendation regarding current management of subsistence deer harvesting (see Action 7, below).

4.0 Recommendations to Improve Unit 2 Deer Management

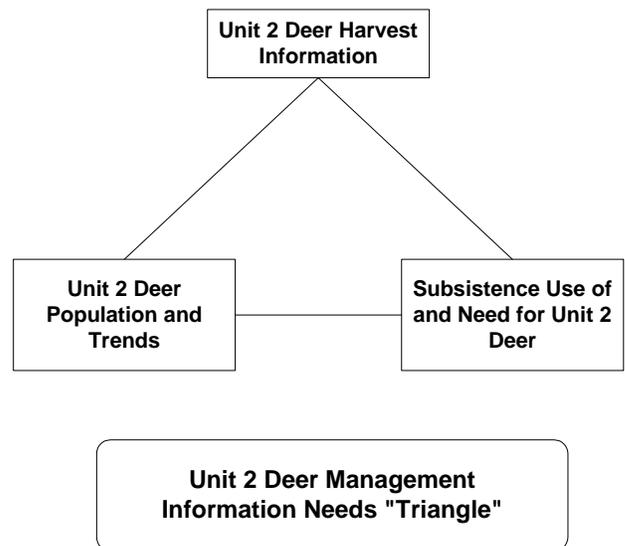
This section presents the Southeast Alaska Subsistence Regional Advisory Council's recommendations regarding Unit 2 deer management, approved at its February 2006 meeting. The Council felt it important to consider a wide range of actions that might improve the situation for Unit 2 deer hunters, not just changes in hunting regulations such as seasons and bag limits. For example, some recommended actions may request that a Federal agency take a particular land management action (e.g., thinning of young growth forest) or expand its public outreach efforts, or may ask a Tribal entity to assist in a collaborative effort. Recommended actions that require a Federal and/or State regulation change must be approved by the Federal Subsistence Board and/or Alaska Board of Game before they could take effect.

For some issues addressed below, the Regional Advisory Council forwarded recommendations during the Unit 2 deer planning process to the Federal Subsistence Board, Board of Game, and/or agency managers for their consideration and action. For those recommended actions that have already led to some work to improve Unit 2 deer management, a brief statement regarding the status of that work is provided below.

4.1 Improve Data and Information to Support Unit 2 Deer Management

Issue: Planning for Unit 2 deer management has been hampered by the lack of comprehensive, agreed-upon data and other information on which to base management recommendations regarding Unit 2 deer. As conditions for deer and for hunters continue to change on the island, it will be essential to have accurate information about the deer harvest, the deer population and any conservation concerns, and the level of subsistence use of and need for deer.

A strong information base will inform future regulatory and harvest management decisions related to Unit 2 deer, and will strengthen public understanding of and support for those decisions. While the Regional Advisory Council and the Federal Subsistence Board have used the best available information to support past regulatory decisions, additional information about the deer resource and uses of Unit 2 deer would have helped them in their difficult decisions. The public, particularly those who have faced and may face hunting restrictions, are insistent that decisions be made based on a strong base of credible scientific information and analysis.



This point was consistently made in public testimony offered during the planning process, particularly by Ketchikan hunters whose hunting season on Federal land on Prince of Wales Island has been restricted since 2003.

Management decisions must be based on strong data and analysis regarding the following:

- Deer Harvest Information – How many deer are taken, where, when, by whom, catch per unit effort?
- Deer Population Estimation and Trends
- Subsistence Use and Need for Unit 2 Deer

The Regional Advisory Council must rely on agencies with management and research expertise to develop appropriate protocols, tools and research programs to collect this information to support future Unit 2 deer management decisions, and to allocate funding to this important work. Consultation with people, communities and organizations with substantial local knowledge about the Unit 2 deer resource and use of that resource is also extremely important.

Objective: Build a strong base of information to strengthen public understanding and apply to regulatory and harvest management decisions related to Unit 2 deer. Priority information that needs to be collected and analyzed includes:

- Harvest Information – How many deer are taken, where, when, by whom, and catch per unit effort?
- Deer Population – Population estimation and trends; and research and monitoring regarding factors (including predation) that influence the population.
- Subsistence Use and Need – What is the subsistence use and need for Unit 2 deer, relative to the provisions of ANILCA, Title VIII?

Action 1. Fund Unit 2 Deer Research and Information Gathering

Recommend additional funding for research and information gathering related to Unit 2 deer management data and information needs. Prioritize Wildlife Information Studies (WIS) funding available through the USDA Forest Service Wildlife Resource Monitoring Program (WRMP) for research related to Unit 2 deer management. Target funding to meet the priority information needs listed in the objective statement, above.

Action 1 Status: Wildlife Information Studies Funding Process Underway. In Federal Fiscal Year (FY) 2005, the Forest Service's Wildlife Resource Monitoring Program provided funding for a study to provide more accurate population data and trends on Prince of Wales Island, and to develop a protocol for continued population monitoring. In addition, a Strategic Plan developed for the WRMP for 2006-2010 recommends that gathering data needed Unit 2 deer

management be a high priority for this funding program (including information about the subsistence use of and need for deer in Unit 2, potential means to enhance deer habitat productivity, and predation effects on the deer population.)

Action 2. Unit 2 Deer Harvest Reporting

Implement the interagency, mandatory Unit 2 Deer harvest reporting system developed by USFS and ADFG during the Unit 2 deer management planning process, to achieve the following:

- High harvest information report rate (over 90%), with community-specific harvest information.
- Unified permit and hunting report forms for all deer hunters, all deer hunts, on all lands in Unit 2 (subsistence, non-subsistence, antlerless deer). (Note: This would not replace the separate paperwork required for designated hunters and proxy hunts.)
- Convenient for user (available at convenient locations, including agency and Tribal offices and vendors; simple paperwork; no additional fee; postage-paid harvest reporting).
- Required harvest reporting, but without heavy-handed enforcement.
- Educate hunters regarding the importance and benefit of reporting accurate deer harvest information.⁴

Follow-up actions for hunters who do not return the Hunting Report form should include letters and phone calls, and possibly additional queries and statistical analysis to characterize deer harvest by non-responders. Reminder letters should not include language that threatens enforcement action. Hunters should be educated, reminded and assisted. Press releases and radio spots should be used to explain why it is important to return the harvest form. The USFS and ADFG should collaborate with Tribal organizations to encourage hunters to respond.

The Hunting Report form should be evaluated by the USFS and ADFG after 2005 to determine whether it has generated harvest data that will inform management and regulatory decisions, including sufficiently characterizing hunting effort throughout the season.

⁴ It should be noted that prior to the Unit 2 planning process, the Council had proposed that the Board of Game enact a State registration hunt for Unit 2 deer, to require all hunters to register and report their harvest. In February 2005, the Council endorsed the alternative harvest reporting approach developed during the Unit 2 planning process and withdrew their proposal for a State registration hunt. In addition, because of the new harvest reporting system, the Federal Subsistence Board took action to eliminate the Federal requirement for Federal registration permits for deer hunting in Unit 2, including the registration formerly required for the antlerless deer hunt.

Action 2 Status: Unit 2 Deer Harvest Reporting System Implemented in 2005. During the 2005 Unit 2 deer season, all hunters were asked to complete and return the Unit 2 Deer Hunting Report form documenting their deer harvest. A copy of the required form is provided in Appendix D. The USFS is providing funding to ADFG to cover most of their increased costs associated with Unit 2 harvest reporting. The USFS and ADFG are working together to follow-up with hunters to obtain complete harvest data for the season, evaluate the success of the new reporting system, and make changes (as necessary) to make it more effective in 2006.

Action 3. Deer Population Estimation and Trends

- A. Collect and integrate information about Unit 2 deer population and trends using multiple tools, since it is difficult to directly observe and quantify deer populations in the field. The Council recommends the following:
- Implementation of a program for regular, more intensive monitoring of the Unit 2 deer population and population trends, using existing or enhanced pellet count methodologies. Effort should be focused in priority areas of Unit 2 with the highest deer harvests and/or highest potential for conflicts related to harvest management, and across the different habitat types represented on Prince of Wales Island.
 - Integration of population observations and trends noted by hunters on Hunting Report forms.
 - Seek support for implementing a voluntary logbook program for active Unit 2 deer hunters.
 - Consideration of other practicable/feasible direct observation methods. These might include deer observation on transects, road-based counts, winter mortality counts (if warranted), and other methods.
- B. Consider establishing voluntary check-stations as a pilot project on Prince of Wales Island, to provide for hunter education and involvement, collect information on hunter effort and field observations, obtain feedback on deer harvest management, and provide an opportunity to collect biological information (age, fecundity). The voluntary check-stations should not include a law enforcement presence or purpose.
- C. Conduct additional work to research, model and monitor Unit 2 wolf and bear populations and their predation effect on deer populations.

Action 3 Status: Deer Population Studies Advertised as High Priority for USFS Funding. In FY 05, WIS funding was provided to fund a study proposed jointly by ADFG and USFS Pacific Northwest Research Station to use DNA analysis of surveyed deer pellets to estimate deer population abundance and monitor trends on Prince of Wales Island. Field work began in March 2006. For

FY 2006, the USFS may prepare a request for WIS funding for check-station and direct observation methodologies.

Action 4. Subsistence Use of and Need for Deer

Document and characterize the subsistence use and need for deer in Unit 2, to inform future management decisions and to support achieving the subsistence provisions of ANILCA. The Council believes that it is essential that this work be accomplished, including the following components:

- Review of existing literature.
- More complete analysis of available quantitative data, from past subsistence research relevant to Unit 2 deer.
- Research into the theory and practice of characterizing the use of and need for subsistence resources.
- Conduct interviews that would allow for a substantial discussion and quantitative and qualitative description of subsistence use and needs. The consultation with hunters would characterize the physical/economic and cultural (social)/traditional values of the use of and need for Unit 2 deer, and would ask people why they aren't getting their needs met (if they have stated they are not). The interviews would ask about a household's subsistence "budget" (all species) and how deer fit into that budget, distribution and exchange of deer within the community, ceremonial needs, and other factors relevant to subsistence use of and need for deer by individuals, households and communities.
- Document and quantify information about subsistence use of deer. (This data could be compared with harvest report data, to provide another source of information about actual harvest and to provide an indication of the accuracy of the harvest report system.)

The Council urges that interviews be conducted with hunters in Prince of Wales Island communities, Petersburg, Wrangell, Saxman and Ketchikan, to document each community's use of and need for Unit 2 deer and to illustrate the similarities and differences between communities. The priority is to collect information about the cultural and social subsistence uses and needs of federally-qualified subsistence users, from rural communities. Nevertheless, interviews are recommended in Ketchikan which is currently designated as a nonrural community. Information about Ketchikan's use of Unit 2 deer may assist the Council and Federal Subsistence Board in identifying harvest management approaches that would minimize impacts on Ketchikan hunters. In addition, Ketchikan may be designated as a rural community in the future. If that occurs, it will be important to have complete information about Ketchikan's use of Unit 2 deer.

The Council sees high value in Tribal and local community leadership and participation in this work, to increase local credibility for the effort and lead to the most accurate characterization of subsistence use of deer. It is also suggested that all parties with an interest (USFS, ADFG, Tribes, University, communities) work collaboratively to design

and implement an effective program. It was noted that the interview process would ideally be repeated since the use of and need for Unit 2 deer may change over time.

Action 4 Status: Subsistence Use and Need Studies Advertised as High Priority for USFS Funding. The request for proposals for FY 2005 WIS funding identified gathering information about the subsistence uses and needs of communities with customary and traditional use of this resource as a high priority need. Unfortunately, an acceptable research proposal was not submitted for funding in FY2006. The WRMP Strategic Plan for 2006-2010 (dated March 2006) identifies this as the top priority information need for WIS funding. A request for proposals for WIS studies for FY2007 will include this topic.

4.2 Deer Harvest Management

Issue: During the Unit 2 deer management planning process, the public offered a wide range of suggestions regarding hunting seasons, harvest limits, the subsistence antlerless deer hunt, and other management and regulatory issues. The “right” approach to managing this important resource depends upon a careful analysis of harvest data, scientific information about the deer resource and subsistence uses of the resource, local knowledge (as expressed in public testimony), and other information and factors.

The public also offered testimony about the early subsistence deer-hunting season that has been provided the last week of July and the first weeks of August since 2003. Many people noted that the early season is not a traditional hunting time and can conflict with fishing. However, it provides a meaningful subsistence priority that is helping federally qualified subsistence hunters meet their needs.

In the near term, the next three to five years, the Council is recommending no major changes in Unit 2 deer management, unless conditions change such that action is required for conservation purposes or to meet subsistence needs. The Council recommends a focus on collection of substantially improved data concerning the Unit 2 deer population, habitat changes in this unit, harvest assessment, and the social and cultural subsistence uses and needs.

However, the Council recognizes that some adjustments in management may be needed to respond to regulatory proposals or to better meet subsistence needs and to limit effects of closures on non-subsistence hunters. At its February 2006 meeting in Saxman, the Council voted to recommend to the Federal Subsistence Board that the August 1-15 closure of Federal lands to deer hunting by non-federally qualified hunters that has been in effect on Prince of Wales Island proper in 2004 and 2005, be expanded to also include Suemez, Dall, Sukkwan, and Barrier islands and numerous other islands in the Cordova Bay, Hetta Inlet and Tlevak Strait area (see Action 7D-2 and 7D-3, below).

The Council is recommending that the Federal Subsistence Board remove the August 1-15 closure on non-subsistence hunting on Federal lands on the southeastern portion of the island (See Action 7D-1). This area of Prince of Wales Island is hunted primarily by

Ketchikan hunters, and is not used as extensively by hunters from rural island communities.

In addition, the Council voted to recommend that the Board provide the opportunity for federally qualified hunters to harvest a fifth deer in Unit 2 by federal permit.

The Council anticipates that there may be increasing pressure on the Unit 2 deer resource and potential for conflict among deer users in the future. However, it is difficult to anticipate exactly what management problems will arise, the magnitude of the problems, and the proper actions to take. The Council is urging management agencies and regulatory bodies to work collaboratively, use the best available information, and consult with the public in making future management decisions. This report also recommends a framework for wildlife managers to use in making future decisions as conditions change (See Action 8 and Table 1, below). The intent is that this framework will provide some direction for the future, and help regulators respond more quickly and effectively as conditions change.

Objective: Regulate and manage Unit 2 deer harvesting in a manner that:

- Provides for the long-term conservation of deer,
- Provides the subsistence priority for federally-qualified subsistence hunters required under ANILCA, and
- Minimizes impacts on non-federally qualified users of deer.

Action 5. Management by Designated Areas

Manage Unit 2 deer within designated areas when necessary to address localized conditions, such as areas of more intense hunting use and competition, specific deer population issues, etc. Such management would allow regulations to be tailored to localized conditions, and would ensure that any restrictions placed on hunters are applied only in areas where such restrictions are warranted.

The Council is not recommending a formal designation of subunits for wildlife management within Unit 2 at this time (e.g., Unit 2A, Unit 2B). Management by designated areas within Unit 2 is needed only for a single species, and managing deer harvest in areas designated through regulation provides more flexibility to harvest in a manner responsive to changing local conditions. However, data collected regarding harvest, deer populations and subsistence use and need should be gathered and analyzed on a local scale to see if it illustrates clear geographic patterns that could help delineate formal subunits, if they are warranted in the future.

Action 6. Designated, Proxy and Cultural Ceremony Hunts

Retain designated hunter, proxy hunter, and harvest for cultural ceremonies. These hunts are essential to supporting the subsistence needs of individuals, households and communities for Unit 2 deer.

Action 7. Management of “Current Condition” for Unit 2 Deer Harvest

The Council has the responsibility to provide recommendations to the Federal Subsistence Board on proposed changes to Federal subsistence regulations. In making its recommendations concerning Unit 2 deer regulations, the Council supports maintaining the following management system for the next three to five years as a more adequate information base is being developed. During this time period, the Council may make recommendations that refine harvest limits and closure conditions as needed to insure that subsistence needs are met and that non-Federally qualified hunters are not unduly restricted. The Council recognizes that some changes may be needed to fine tune existing regulations.

- A. Retain the closure of specified Federal public lands in Unit 2 to hunting by non-Federally qualified hunters during the August 1-15 portion of the hunting season.
- B. Retain provision for harvest of no more than one antlerless deer by federally qualified subsistence users, October 15-December 31.
- C. Retain the July 24-31 early hunt for federally qualified subsistence hunters on Federal public lands in Unit 2.
- D. Adjust the area closed to non-federally qualified hunters during the August 1-15 portion of the hunting season as follows (all of Prince of Wales Island proper was closed during the 2004 and 2005 seasons; all other islands in the archipelago were not closed):
 1. Open the southeast portion of Prince of Wales Island during the August 1-15 portion of the hunting season. This area is defined as Federal public land north of Cape Chacon and south of Cholmondeley Sound that drains eastward into Clarence Strait (includes Wildlife Analysis Areas 1209, 1210, 1211, 1213).
 2. Close Suemez Island to non-federally qualified hunters during the August 1-15 portion of the hunting season.
 3. Close islands on the west side of Prince of Wales Island within Unit 2 south of 55 degrees 17' N. latitude and east of 134 degrees 20' W. longitude and west of Cape Chacon excluding Long Island during the August 1-15 portion of the hunting season. (This area includes Dall, Sukkwan and Barrier Islands, and numerous other islands in the Cordova Bay, Hetta Inlet, and Tlevak Strait area.)
- E. Provide the opportunity for Federally qualified users to harvest a fifth deer in Unit 2 with the following conditions:

Federally qualified hunters in Unit 2 may receive a Federal permit allowing the harvest of a 5th deer from Unit 2. A Federal permit will be issued allowing the harvest of one buck. A person requesting a permit will need to show his/her used or validated 4th deer tag.

Action 7 Status: Council Recommendations to Federal Subsistence Board on Regulatory Proposals for 2006. At its February 2006 meeting in Saxman, the Council adopted a recommendation to the Federal Subsistence Board regarding regulatory proposals that would enact the changes outlined in Action 7, above. The Federal Subsistence Board will meet in May 2006 to take action on the regulatory proposals and will consider the Council's recommendation at that time.

Action 8. Management of "Changing Conditions" in the Future

The Council anticipates that there will be increasing hunting pressure on Unit 2 deer and potential for conflict among deer hunters in the future. The "demand" for deer is expected to increase with improved access to and on Prince of Wales Island and changing demographics, and the "supply" of deer is expected to decrease as the young growth forests produce fewer deer.

The Council believes that increasing the deer supply in Unit 2 is a top priority, and recommends that habitat on Prince of Wales Island be actively managed to restore and rehabilitate young growth forests to increase the deer supply (See Actions 9 and 10, below). Habitat management activities should focus on improving deer supply in areas most important for subsistence.

The Council recommends that as conditions change in the future, Federal and State harvest managers work collaboratively, using the general framework outlined in Table 1, to:

- Identify the condition that is occurring (for examples of possible future conditions, see Column 1 of Table 1).
- Consider the possible cause for the condition, by evaluating the indicators of change (see Column 2 of Table 1). Apply best available data related to Unit 2 deer harvest, deer population and trends, and subsistence use and need – generated through the work recommended in Actions 1-4.
- Consider the geographic scale at which the issue is of concern. Is the condition occurring in all of Unit 2, or in more localized areas?
- Recommend to regulatory boards and/or directly-implement management tools that will meet the objectives for Unit 2 deer management recommended by the Unit 2 deer subcommittee in this report (see Column 3, Table 1). Depending upon the geographic scale of the condition, the tools may need to be applied unit-wide, or only in more localized areas.

The degree to which these management tools are employed should be based on the specific future condition that is being addressed, the indicators of change, and the best available information about the deer resource and its use. Also, appropriate management tools should be decided through the established public regulatory processes.

Table 1
Possible Future Conditions and Management Tools to Consider
for Management of Unit 2 Deer Hunting

(These conditions could occur and may require management either throughout Unit 2, or in more localized areas)

Column 1	Column 2	Column 3
Possible Future Condition	Possible Indicators of Change (Not an exclusive list)	Potential Management Tools to Consider
<p>I. Decreasing competition for deer resource or increase in deer supply, such that subsistence users are able to meet their need for Unit 2 deer.</p>	<ul style="list-style-type: none"> • Increasing trend in deer population. • Increased catch per unit effort. • Increased harvest levels. • Public testimony / local knowledge. 	<ul style="list-style-type: none"> • Remove/reduce restrictions on nonrural (non-subsistence) hunters. • Liberalize hunting regulations (such as seasons, harvest limits).
<p>IIA. Inability of Federally qualified subsistence users to meet their needs, because of increasing competition for deer resource.</p>	<ul style="list-style-type: none"> • Public testimony expressing concerns and/or increased proposals to change regulations. • Increase in numbers of nonrural hunters using Unit 2 deer, relative to rural users. • Reduced harvest levels by rural users. • Reduced catch per unit effort by rural users. • Subsistence harvest not meeting level of customary and traditional use and need, as determined through research and data collection. 	<p>Consider the following tools, which may be used in combination and/or in varying order:</p> <ul style="list-style-type: none"> • Additional timing restrictions on nonrural hunt. • Establish later subsistence hunt (January). • Reduce bag limit for nonrural hunters. • Manage road access, manage within designated management areas, or use other methods (e.g., incentives) to address localized hunting pressures and distribute hunting effort to less congested areas. • Antler restrictions for nonrural deer hunters.

Table 1, continued

Column 1	Column 2	Column 3
Possible Future Condition and Cause	Possible Indicators of Change (Not an exclusive list)	Potential Management Tools to Consider
<p>IIB. Inability of federally qualified subsistence users to meet their needs, because of a measurable deer population decline.</p>	<ul style="list-style-type: none"> • Public testimony expressing concerns and/or increased proposals to change regulations. • Decline in deer population trends, based on available data • Increase in ratio of antlerless deer harvested, relative to antlered deer harvested. • Reduced harvest levels by rural users. • Reduced catch per unit effort by rural users. • Subsistence harvest not meeting level of customary and traditional use and need, as determined through research and data collection. 	<p>In addition to the tools listed above in Section IIA of Table 1, consider the following tools, which may be used in combination or in varying order:</p> <ul style="list-style-type: none"> • Further restrict non-Alaska residents. • Restrict rural hunters (e.g., timing, bag limit, antler restrictions). • Reduce or eliminate antlerless deer harvest. • Consider need for differential allocation among rural users under ANILCA Section 804. (The Council recognizes that this would be a difficult management tool to apply, and should be considered only if other approaches have not been successful at providing for the subsistence needs of all federally-qualified subsistence users.)
<p>IIIA. Deer population is demonstrating a measurable decline, and is below habitat carrying capacity.</p>	<ul style="list-style-type: none"> • Deer population decline (indicated through multiple sources). • Public testimony / local knowledge. 	<p>In addition to the tools listed above in Sections IIA & IIB of Table 1, consider the following tools, which may be used in combination and/or in varying order:</p> <ul style="list-style-type: none"> • Consider adjusting existing harvest regulations for bear and wolf, consistent with subsistence management and with sound principles of wildlife management • Adjust hunting of bucks, if effective to rebuild population
<p>IIIB. Catastrophic decline in deer population.</p>	<ul style="list-style-type: none"> • Evidence of catastrophic deer mortality. • Public testimony / local knowledge. 	<p>In addition to the tools listed above in Section IIA, IIB and IIIA of Table 1, consider the following:</p> <ul style="list-style-type: none"> • Stop all deer hunting in specifically identified areas.

4.3 Young Growth Forest Management

Issue: During the Unit 2 planning process, USFS and ADFG wildlife biologists and a USFS silviculturalist presented technical information about how deer habitat and productivity on Prince of Wales Island has been affected by past timber harvest, and about the potential to thin “young growth” forest stands to benefit deer and other wildlife. After clear cut logging, forests regenerate into dense young growth stands that provide poor habitat for deer, with little of the herbaceous, high-nutrition vegetation that support deer productivity.⁵ The USFS sees encouraging possibilities for thinning young growth stands on Prince of Wales Island (and elsewhere on the Tongass National Forest) to boost productivity of deer and other wildlife. Research, experimental treatments, and more thinning operations are needed.

In early studies (1980s), “pre-commercial” thinning of 20-30 year old stands did not appear to result in growth of understory shrubs and herbs that would benefit deer. However, there have been more encouraging results in the past ten years. And, while commercial thinning (harvesting stands at about 80-100 years old for sale) has not been economically feasible to date, these small trees may be economic for certain uses (e.g., veneer).

On Prince of Wales Island, about 200,500 acres of timber has been harvested on Forest Service land on Prince of Wales Island. There have also been very significant timber harvests on private, primarily Native Corporation, lands. About 71,000 acres of Forest Service land, or 35% of harvested acres, has been “treated” (generally thinned) for different purposes. The USFS currently treats about 2,000 acres/year to improve timber growth and about 250 acres/year for wildlife benefit. The amount of acreage treated is largely governed by funding availability. The Council requests Forest Service to address this backlog of clear cut acres that have not been treated and to focus future treatment primarily on wildlife benefit.

In addition, the USFS is continuing to research and test timber harvest methods that are alternatives to clear cutting that would have less impact on wildlife habitat and productivity.

Objective: Work to improve and maintain deer habitat in Unit 2.

Action 9. Rehabilitation of Young Growth Forests

Continue and expand USFS research, and implement a comprehensive program to restore and rehabilitate young growth forests in Unit 2 for the benefit of deer. The young growth forest rehabilitation program should target areas that would provide the greatest benefit by increasing the supply of deer in areas intensively used for hunting (to address the issues with deer supply relative to demand). The Council recommends that the USFS State and Private Forestry Office work with private land owners, mainly Sealaska and

⁵ ADFG deer pellet data show about 40-60 deer/sq. mi. in old growth forests, 30-50 deer/sq. mi. in clear cut forests, and only 1-3 deer/sq. mi. in dense young growth.

other Native Corporations to support and implement similar young growth rehabilitation projects on their lands.

Action 9 Status: Young Growth Forest Management on Prince of Wales Island.

At the request of the Council, the Forest Service has begun an interagency effort to develop a management strategy for young growth forest management on Prince of Wales Island. The purpose of the strategy is to identify high priority young growth areas for treatment, which would provide the greatest benefit for deer and for people who use deer. The USFS would use the strategy to guide expenditure of available funds to the highest priority areas, to demonstrate the need for funding to support additional young growth treatment, and to look for opportunities to collaborate with other partners to fund and/or achieve the strategy's objectives. An interagency working group met in November 2004 and January 2005. The strategy is expected to be completed in June 2006, and young growth treatments are continuing on the island in 2006.

Action 10. Alternative Timber Harvest Methods

Implement alternative commercial timber harvest methods (e.g., alternatives to clear cutting) that promise to provide greater benefit to deer than the harvest techniques of the past.

4.4 Hunting Access

Issue: The USFS has been conducting an Access Travel Management Roads Analysis for Prince of Wales Island, to determine road maintenance and access priorities for the future. The USFS has 1,400 miles of roads on the island suitable only for high-clearance vehicles. The agency has only about 60 percent of the funding it would need to maintain these roads. The analysis is determining which roads on the island should remain open to high-clearance vehicles, which to off-road vehicles, and which closed; the level of maintenance; and other access management issues. (The analysis does not affect management or maintenance of the 280 miles of USFS passenger vehicle roads on the island.)

Objective: Ensure that USFS decisions about access management on Prince of Wales Island consider effects on deer hunting, and the ability of rural users to meet their subsistence need for deer.

Action 11. Prince of Wales Island Road Maintenance and Management

In decisions regarding which USFS roads should remain open for road and off-road vehicles, consider the importance of road access for deer hunting, particularly in areas where hunting pressure is high, but also recognize that road closure may be a tool that could help manage and improve deer supply in local areas. Roads that are closed should be left passable for foot traffic for hunter access.

Action 11 Status: Road Management. The Craig and Thorne Bay Ranger Districts are nearing completion of an Access Travel Management Plan for Prince of Wales Island, in response to changing use patterns, growing resource concerns, and substantial reductions in road maintenance budgets. The plan will determine and provide for the minimum forest transportation system that best serves current and anticipated public uses and management needs. The agency and contractors working on the plan have considered this recommendation regarding access, along with substantial public testimony gathered during their planning process. Most proposed road closures are on the last mile (or less) of spur roads, and would not significantly affect subsistence hunting access. A final Environmental Assessment for the plan is expected in spring 2006.

4.5 Regulations and Enforcement

Issue: During the planning process, the public provided considerable testimony about enforcement issues, including concerns about spot-lighting of deer, hunters exceeding harvest limits for antlered and antlerless deer, or hunting out of season. People were most concerned about these types of infractions if they felt that there was a concern for long-term conservation of the resource, that their own needs for deer were not being met because of the actions of other hunters, or if they were facing regulatory restrictions (applied to non-subsistence hunters in recent years.) The public also spoke to the need to have consistency between State and Federal hunting regulations, to avoid confusion and potential non-compliance.

Federal law enforcement personnel attended each Unit 2 deer planning meeting, joined by State officers at several meetings, to provide information about enforcement issues and the challenges of providing adequate enforcement coverage in a large and remote area. Law enforcement personnel also largely supported having consistent State and Federal regulations.

The Council determined that it would not be appropriate for it to micromanage or direct how wildlife enforcement should be done in Unit 2. Law enforcement officers must determine how they can most efficiently and effectively enforce hunting regulations. However, the Council is urging consistency among State and Federal regulations and enforcement efforts when possible, while recognizing that the Federal subsistence program is to benefit rural subsistence users. Further, the Council is urging that law enforcement personnel work to improve public understanding of why the regulations are important and what they accomplish. At the suggestion of law enforcement personnel, the Council supported two changes in Federal regulation, to address an inconsistency with State regulation related to evidence of sex on a deer carcass, and to reduce the potential for spot-lighting of deer.

Objective: Promote consistent, understandable and effective state and federal regulations and enforcement for the conservation of the Unit 2 deer population.

Action 12. Consistency in Federal and State Deer Management Regulations

Support consistency between state and federal regulations for Unit 2 deer management, when possible, recognizing that the Federal subsistence program is to benefit rural subsistence users.

Action 13. Effective and Consistent Enforcement

Encourage efficient, effective and consistent enforcement of regulations for Unit 2 deer harvesting.

Action 14. Public Understanding of Regulations and Rationale

Improve public understanding of the “why” behind regulations – Why is it to each hunter’s advantage to comply (especially in terms of long-term conservation of the resource)?

Action 15. Federal Regulation Change – Evidence of Sex on Carcass

Change the Federal regulation for evidence of sex to match State regulation, and allow removal of sex glands provided the carcass is intact and antlers are attached.

Action 15 Status: Federal Regulation Changed Regarding Evidence of Sex on Deer Carcass. The Regional Advisory Council voted in February 2005 to propose this regulation change regarding evidence of sex on a deer carcass to the Federal Subsistence Board, based on the recommendation of the Unit 2 deer planning subcommittee in its interim report. The Federal Subsistence Board made this regulation change in May 2005.

Action 16. Federal and State Regulation Changes – Spot-Lighting

To address enforcement issues with spot-lighting of deer, propose changes to State and Federal regulations to work to eliminate this wasteful and unethical hunting practice:

Action 16 Status: Regulations to Address Spot-Lighting. The Council has asked Forest Service Law Enforcement staff to draft language for a regulatory proposal related to spot-lighting of deer, to submit through the Council process.

4.6 Public Involvement and Awareness

Issue: Hunters who testified about their thoughts and concerns at Unit 2 deer planning meetings held strong opinions about deer hunting on Prince of Wales Island. They shared a concern for the long-term conservation of deer and for being able to continue to share deer meat and hunting experiences with their families, elders, friends and communities in the future. And yet, those who testified were often in deep disagreement about what to do about Unit 2 deer hunting.

To some degree, the source of their disagreement was the lack of a shared understanding about the laws that govern subsistence management (ANILCA) and the facts related to management of Unit 2 deer. The Council believes that increasing public understanding about the biological, cultural, legal and policy issues that affect Unit 2 deer management may improve communication between all users of the deer resource, and help reduce conflict as future management decisions are made.

Objective: Increase public understanding of the subsistence provisions of ANILCA; the traditional ecological, scientific and management issues related to Unit 2 deer harvesting; and the “why” behind harvest regulations.

Action 17. Public Outreach

Develop and implement a program for public outreach that informs the public about Unit 2 deer management issues, harvest regulations and harvest reporting requirements; invites their participation in the regulatory process; and explains the provisions of ANILCA that set the context for Unit 2 deer management provisions. Time the public outreach to provide information prior to the hunting season and before key dates in the federal and state regulatory processes.

Consider the following public outreach tools and approaches:

- A. Poster with map, and brochures – display at USFS, ADFG, Tribal and local government offices; Interisland Ferry; Alaska Marine Highway ferry; airports; other public locations. An updated map of land ownership is essential (request that this be developed by the USFS for posting prior to 2005 season).
- B. Press releases – target all local papers (Ketchikan, Island News, Petersburg, Wrangell) and distribute regionally as well. Target the Ketchikan Daily News hunting issue/insert in July.
- C. Radio spots – brief announcements of key information, as well as longer public interest stories
- D. Cable TV scanner for brief announcements
- E. Use available speaking forums – such as Ketchikan’s “Friday Night Insight” at the Discovery Center, Deer Celebration and Earth Day Celebration in Craig, etc.
- F. Website – hosted by Office of Subsistence Management, with links to and from popular hunting and Prince of Wales Island sites (e.g., Alaska Hunting Forum, princeofwales.com, etc.)
- G. Contacts with local Fish and Game Advisory Committees and sportsman’s groups
- H. Local newsletters – such as village corporation or Chamber of Commerce
- I. Try to “package” information about the Unit 2 deer harvest and ANILCA with interesting hunting stories, tips, photos that will engage public interest.

Action 17 Status: Public Outreach Efforts Underway. USFS and OSM staff provided public outreach materials in fall 2005 to explain the Hunting Report form to be used in the 2005 hunting season and provide information about the results of the Unit 2 Deer Planning process. Public outreach tools included a flyer to educate vendors who provide licenses and harvest tags, and hunters obtaining harvest tags; press releases, radio spots and cable TV scanner. Additional public information will be provided in 2006.

4.7 Coordination in Management

Issue: Wildlife management in Alaska is a shared responsibility between Federal and State regulatory boards and management agencies. In some cases, wildlife managers and regulators fail to share and discuss information important to wildlife management, or make decisions that do not align. This can be confusing to the public and may not result in the best decisions for the resource and hunters. At times, managers and regulators also fall short in involving local Tribes, communities and hunters, who have tremendous local knowledge related to wildlife resources and uses, in their discussions and decisions.

The Unit 2 Deer Planning process helped improve coordination and open up conversations among agencies, Tribes, and the public about the future of Unit 2 deer. The Council urges that this communication and collaboration continue, for the benefit of the deer and deer users.

Objective: Encourage collaboration among state, federal, Tribal and local entities and users of the resource in research and management actions related to the Unit 2 deer herd.

Action 18. Annual Pre-Season Collaborative Meeting with Agencies, Tribes and Others

Conduct an annual collaborative pre-season meeting between ADFG, USFS, Tribal organizations and others to review available information about harvest, deer population trends, and subsistence use and need. (Suggested timeframe would be March of each year.) Meeting participants should work to develop a shared sense of harvest levels, patterns and trends; population trends; and any need for management changes to meet the objectives for Unit 2 deer management. Results of this annual meeting could be shared with the Federal Subsistence Board, Regional Advisory Council, participants in the Unit 2 deer planning process, local Fish and Game Advisory Committees, and the media.

Action 19. Local Involvement and Employment in Data Collection and Research

Hire local people when possible to assist with the collection of data and information to support Unit 2 deer management (see Actions 1-4), to build local and Tribal collaboration into these projects and to provide local jobs.

Action 19 Status: Local Involvement. The on-going deer population survey work being funded by the Forest Service with WIS funds includes coordination with the Hydaburg Cooperative Association and employment of tribal members. The Craig Community Association is involved in development of a proposal for WIS funding of a project to determine the subsistence use of and need for Unit 2 deer.

5.0 Conclusion

The Southeast Alaska Regional Advisory Council has adopted a range of recommended objectives and actions to improve deer management in Unit 2 of Southeast Alaska, especially Prince of Wales Island. The recommended actions were developed through a planning process conducted by an advisory subcommittee of the Council from November 2004 through February 2006, and then adopted as modified by Council action at its February 2006 meeting.

The Council's recommendations achieve the goal of recommending a subsistence-based management approach for Unit 2 deer that will serve as a management framework to ensure the long-term conservation of the deer population, allow subsistence users to meet their needs, and minimize adverse effects on non-federally qualified hunters. The recommendations focus on collecting additional substantial information about Unit 2 deer – especially how they are hunted and how they are used – that will provide better information to support the future decisions of regulatory boards and wildlife managers.

For the next three to five years, the Council is recommending:

- Focus on substantially improving data and information about Unit 2 deer harvest, deer population trends, and the subsistence use of and need for Unit 2 deer (Actions 1-4).
- No major changes to Unit 2 deer harvest management. Minor adjustments may be needed to respond to regulatory proposals or to better meet subsistence needs. Adjustments recommended by the Council include the following:
 - Reopen deer hunting on federal lands on the southeast portion of Prince of Wales Island from August 1-15 for non-subsistence hunting, beginning in 2006 (Action 7D-1).
 - Close federal lands on the western/outer islands from August 1-15 for non-subsistence hunting, beginning in 2006 (Action 7D-2 and 7D-3).
 - Provide the opportunity for federally qualified hunters to harvest a fifth deer in Unit 2 by federal permit, under specified conditions.
- Work to increase the deer population in Unit 2 by expanding a USFS program to restore and rehabilitate young growth forests on federal land for the benefit of deer, and implementing alternative commercial timber harvest methods on future timber sales that may provide greater benefit to deer (Actions 9-10).

For future years, the Council has recommended deer harvest management tools that could be applied in Unit 2, as deer population trends and hunting use patterns change (Action 8 and Table 1). The degree to which these tools would be employed would be decided through the established public regulatory processes. The Council is also recommending more consistency between State and Federal regulations and enforcement (Actions 12-16), improved public outreach about ANILCA and Unit 2 deer (Action 17), and improved coordination between Federal and State agencies, Tribes, and other entities in Unit 2 deer management (Actions 18-19).

The Unit 2 Deer Planning process brought together people who hunt and use deer to: (1) understand each other's perspectives; (2) craft solutions that will implement the subsistence priority of ANILCA, while better addressing the interests of non-federally qualified hunters; and (3) build a strong capacity for deer users to be involved in future deer management decisions as the "environment" for deer hunting in Unit 2 continues to change.

The effectiveness of the planning process has demonstrated the value of using this type of collaborative, public/agency process to resolve contentious wildlife management issues. The Federal Subsistence Board recognizes the value of this type of collaborative effect among fish and wildlife users who, along with agency managers, can work together to craft solutions to subsistence management issues.

The people who participated on the advisory subcommittee during the planning process reflected the range of deer hunters and users that rely upon Unit 2 deer – including both federally qualified subsistence and non-federally qualified hunters. Many members of the public provided testimony and written comments during the process. However, the results of the planning process for Unit 2 deer cannot be expected to resolve all problems to the satisfaction of all people. Continued public involvement in implementation of these recommendations by the Council, the Board and other entities will be important.

The success of the planning process in achieving its objectives for Unit 2 deer management depends in large part upon the future support and work of the Regional Advisory Council, the Federal Subsistence Board, and the State and Federal management agencies to follow through with implementation of the actions recommended in this report. It will be essential to refine Unit 2 deer management, as additional information is gathered about the deer resource, the hunt, and its use – and as the hunt changes as conditions on the island for deer and hunters change in the future.

The Unit 2 Deer Planning process involved an extensive commitment by public volunteers, who contributed their time, energy, creative thought and patience to the process. This Final Report represents a major accomplishment for the collaborative process, but especially for the many people who contributed to the planning process.

Appendix A

Alaska National Interest Lands Conservation Act, Title VIII

- Introduction to ANILCA – from Federal Subsistence Management Program, 2002
Regional Council Operations Manual
- ANILCA Title VIII Overview – from Federal Subsistence Management Program, 2002
Regional Council Operations Manual
- Text of ANILCA Title VIII

Appendix B

Summary of Public Testimony at Unit 2 Deer Planning Meetings

Summary of Public Testimony at Unit 2 Deer Planning Meetings

November 18-19, 2004 – Craig, Alaska

Time for public comment was provided in the early afternoon on both November 18 and 19, 2004, at the Unit 2 planning meeting at the Shelter Cove Lodge in Craig. Four people (all Craig residents) spoke and made the following points:

- The rural-only season is a benefit to island residents and substantially helps them meet their subsistence needs. However, in August, people are still busy with fishing. A later rural-only season (e.g., October) would be more in line with customary hunting time and would not conflict with other subsistence uses.
- The requirement that sex glands be left on deer should be changed. Hunters customarily remove glands in the field; antlers should be sufficient. (Note: State regulation say antlers are sufficient if carcass is intact. Federal regulations require sex glands to be in place.)
- Seeing lots of does this hunting season (to date in 2004).
- The federal registration permit and required report feels like too much paperwork to many people.
- The letters and phone calls that the USFS used to notify people that they would not receive a 2004-05 federal permit if they did not return the report for the 2003-04 season were worded in a way that was offensive. The threat that subsistence users would not be allowed to hunt if they failed to return a piece of paper was unacceptable.
- Why can't the reports for federal permits be returned to the Craig or Thorne Bay Ranger District? Last year, the reports had to be mailed to the USFS in Petersburg. Several were misplaced and people received enforcement letters/phone calls.
- Roads provide important access for subsistence deer hunting. Planning for roads and road closures on Prince of Wales Island must consider subsistence access.
- The doe season should be eliminated to allow for an increase in the deer population.
- Local hunters are disturbed when they find carcasses with only the antlers and back straps taken. The meat that is wasted could be shared with community elders. Hunters need to know that if they don't want the meat, they can contact an organization that would distribute to elders and others who would use it.
- Need to have monitoring checkpoints at the ferry, particularly on Sunday and Monday sailings.
- Off-island hunters dedicate multiple days to their hunts, which boost their success. Local people are fitting hunting in with their jobs and other activities.
- Concern over deer population in the future. Everyone should be able to agree to the need for conservation of deer for the long-term benefit of all.
- Subsistence is needs-based and is a way of life. Must receive the priority provided in ANILCA.
- Subsistence resources are declining.

- It should be acceptable to restrict off-island residents. They are making the choice to live in an urban environment, where they have alternative foods and a cash economy, and do not need access to subsistence foods in the same way that rural residents do.

December 15-16, 2004 – Ketchikan, Alaska

Time for public comment was provided on December 15, 2004, at the Unit 2 deer planning meeting at the Discovery Center in Ketchikan. Sixteen people (all Ketchikan residents) spoke and made the following points:

- The priority provided to rural residents as Federally qualified subsistence hunters is discriminatory against the rights of Ketchikan residents. The priority does not feel fair. The law gives a priority to Prince of Wales Island residents over native residents in Ketchikan who may have lived on the island or have family ties there. All Alaskans should have equal hunting rights – particularly on Federal public lands.
- In response to this issue, one commentator noted that ANILCA is a Federal law that provides priority for federally qualified subsistence users. This priority was not established by local or state entities, and must be implemented by the Federal Subsistence Board as Congress intended.
- People who have year-round access to a grocery store should not qualify as federal subsistence users. People who do not live on a road system should qualify as subsistence hunters and should have the ability to hunt year-round.
- Subsistence qualification should be based on income level or need, rather than on your place of residence.
- State bag limits are more than adequate for people to meet their subsistence needs.
- Prince of Wales Island is an attractive hunting destination for Ketchikan hunters because of Interisland Ferry Authority (IFA) access and good road access on the island.
- The island is particularly important to hunters who bring their families over to hunt. The August closure on Federal lands has made it more difficult for families. A “youth only” hunt should be considered for August 1-15 on Federal lands.
- One commentator noted that Unit 2 deer are more plentiful than Unit 1, due to heavy predation by wolves in Unit 1. Another concurred that deer numbers are declining on Revillagigedo and Cleveland Peninsula.
- Ketchikan should have a rural designation under ANILCA.
- Many hunters contribute to the Prince of Wales Island economy during their hunts, spending for fuel, food, lodging and vehicles.
- Hunters are seeing as many or more deer on Prince of Wales Island now as in the past.
- Many commentators wanted to eliminate the August 1-15 hunt for rural hunters on federal lands. They want Ketchikan hunters to be able to start hunting August 1, as they had prior to 2002. Some thought that the delayed start date (mid-August) was going to be just for a one-year trial period, not a permanent regulation. Another suggested that the opening date be changed back to August 1 until better data is gathered to support the rural-only hunting season.

- Many commentators felt that the decision made by the Federal Subsistence Board to institute a rural-only season was made without adequate scientific evidence that the deer population was declining or that subsistence needs were not being met. They feel that the Board relied on opinion and anecdotal evidence that could not be verified.
- Enforcement of state and federal game regulations is essential. A number of commentators noted that they see little or no enforcement personnel. Year-round enforcement is important to stop out of season hunting.
- There is a need for better data on how many deer are being harvested in Unit 2.
- Some Ketchikan hunters access Prince of Wales Island by boat and do not compete with road hunters on the island.
- Several commentators recommended discontinuing the doe harvest.
- To increase the supply of deer, should address wolf predation.
- Weather is a stronger source of mortality for deer than hunting.
- Enforcement needs to address spot lighting of deer.
- The road access to hunting on POW Island is safe and convenient, particularly for people who do not have a boat to access areas in Unit 1.
- A limit or restriction on out-of-state hunters should be considered.
- There are plenty of deer available for hunters on POW Island, provided people get out of their trucks and hunt in the woods, muskegs and alpine. It is no longer as easy to hunt deer from the road.

During the public testimony, Vice Chair Dolly Garza asked each person if they would comment on their reaction to the idea of having a registration hunt for deer in Unit 2. The Southeast Regional Advisory Council has proposed a registration hunt to the Alaska Board of Game and the Federal Subsistence Board. Of those who responded, nine people indicated they would not object to a registration permit, provided it was a requirement applied equally to all hunters, would be used to manage the deer population and not to further restrict hunting opportunity, and included a consequence or penalty for people who did not return the required harvest report. One person expressed “mixed emotions” about the prospect, but advised that there should be no additional fee for the permit and should be convenient for pick-up and reporting at local ADFG offices. Four people objected to the idea. Two had no response to the question.

Dr. Garza also noted that the Federal Subsistence Board is beginning the process of reevaluating which communities in Alaska should be designated as “rural” under ANILCA. The Regional Advisory Council has supported changing the designation of Ketchikan from “urban” to “rural,” which would give Ketchikan residents Federal subsistence rights. However, the community of Ketchikan would have to make the determination that they want the rural designation and bring their request to the Federal Subsistence Board for consideration. Tom Skultka noted that the people he has spoken with on POW Island support a rural designation for Ketchikan.

Steve Kessler, USFS, noted that the Federal Subsistence Board would soon begin a public process regarding the community designations. Dr. Garza suggested that the community of Ketchikan request that the Board hold a public meeting in Ketchikan regarding this issue.

January 18-20, 2005 – Wrangell, Alaska

Time for public comment was provided on January 19, 2005, at the Unit 2 deer planning meeting at the Nolan Center in Wrangell. Two people (both Wrangell residents) spoke and made the following points:

- Both speakers guided deer hunting in Unit 2. They own/work for the only business guiding on Prince of Wales Island. They harvest six deer/year through guiding.
- Road-based hunting has thinned out deer in those corridors, but there are still plenty of deer available off-road. There is not a conservation concern with Unit 2 deer.
- Regulatory decisions must be based on biological information, not just public opinion.
- Concern expressed with potential to exclude hunters from off-island communities. Federal land is public land that should be open to all users. (In response to this issue, Don Hernandez explained that ANILCA is a Federal law that provides priority for federally qualified subsistence users. This priority was not established by local or state entities, and must be implemented by the Federal Subsistence Board as Congress intended.)
- State bag limits and season length are generous. People should be able to meet their need for deer under the existing state regulations.
- If there is concern about a future decline in deer, does not make sense to allow hunting of does.

At Tom Sims suggestion, the two speakers looked briefly at the draft Unit 2 Deer Hunting Report form developed by USFS/ADFG. They are both members of the Wrangell Advisory Committee, which had voted unanimously to oppose a registration permit hunt for Unit 2 deer. They thought the harvest reporting system would be a good alternative, acceptable to hunters. They recommended that the form have a place to record the Game Management Unit in which each deer was taken, and ask hunters if deer populations seemed higher/same/lower relative to past years in Unit 2.

March 16-17, 2005 – Thorne Bay, Alaska

Time for public comment was provided on March 16, 2005, at the Unit 2 deer planning meeting at the Bay Chalet in Thorne Bay. The following points were made:

- Suggestion that hunt be limited to bucks with two-points or better (no spike deer), to reduce the number taken and to ensure harvested deer are older.
- Don't agree with the early start (July 24) for hunting. Deer are still growing at this time. This hunt only benefits people who are road hunting.
- When the Interisland Ferry Authority begins service to Coffman Cove, it will increase hunting pressure. Now is the time to implement a planning effort like this, to prepare for that future scenario.
- Disappointed that the wolf season was closed during the deer season. Need to take the predators.

- Hunt for antlerless deer is great for subsistence users. Possibly should be limited to later in the year.
- Doe hunt does not help population; deer numbers have dropped significantly since doe hunt initiated.
- Support for more law enforcement, especially control of spot-lighting. Suggest that hunting be limited to daylight hours.
- Road closures (due to inadequate funds for continued maintenance) will further concentrate hunting pressure in areas where access is maintained.
- Need to make sure people are made aware of the new regulation requiring them to hunt their harvest tags in order.
- Question from public – What is happening with the deer population, according to agencies?
 Answer – Pellet counts give useful information on a regional scale, but not on a local scale. It is important to hear from local hunters, “What have you seen?” In response, one member of the public was noted a decline over the past seven years, but deer could just be withdrawing from the road corridor as roads get busier.
- Question from public – Number of does taken?
 Answer – About 70 island-wide each year, over last three years.
- Question from subcommittee to public – Thoughts on need for restriction on urban hunters?
 Response from one member of the public – Not needed. East Prince of Wales Island Advisory Group meeting in 2003 noted that the restriction on Ketchikan hunters was not needed. Suggested forked horn hunting only; unanimously against doe hunt.
- Question from subcommittee to public – What about longer season for hunters accessing Prince of Wales by boat, not road system?
 Response – Would be popular with Ketchikan hunters, who heavily use the southeast area of Prince of Wales Island, which is not on the road system.
- Question from subcommittee to public – How would people feel about mandatory check-stations?
 Response – Good idea; controls poaching and spot-lighting. Should be mandatory, not voluntary. Establish random locations and random schedule.

April 19-20, 2005 – Ketchikan, Alaska

Time for public comment was provided on April 19 and 20, 2005, at the Unit 2 deer planning meeting at the Discovery Center in Ketchikan. Three people testified and offered the following points:

- Access to Unit 2 deer is important to Ketchikan families, who want their children to grow up hunting. Appreciated reducing restriction from August 1-21 to August 1-15, and expects that Ketchikan hunters would appreciate lifting the August restriction on Federal lands on southeast Prince of Wales Island. However, sufficient road access is “golden” to families with children.

- One speaker suggested that the the August restriction should be lifted on the eastern Prince of Wales, from Scowl Arm southward (south of Kasaan).
- Deer are still to be found on Prince of Wales Island, particularly by hunters who do not hunt solely along the road system, but hike into the alpine.
- Restrictions placed on Ketchikan hunters have been very frustrating, particularly since there is not sufficient scientific basis to support the restrictions.
- Concern that information reported on the Hunting Report form will be misconstrued as “too many deer” being taken off of Prince of Wales Island by a Ketchikan hunter.
- If there is a concern about the deer population, regulators need to eliminate the doe harvest and reduce the bag limit.
- Concerned that the subcommittee and Regional Advisory Council don’t have Ketchikan hunters concerns at heart.
- Hunting in Unit 1 more difficult to access, particularly for hunters without boats or four-wheelers. Road system on Unit 2 makes hunting possible for many people.
- The priority provided to rural residents as federally qualified subsistence hunters is discriminatory against the rights of Ketchikan residents. The priority does not feel fair. The law gives a priority to Prince of Wales Island residents over native residents in Ketchikan who may have lived on the island or have family ties there. All Alaskans should have equal hunting rights – particularly on Federal public lands.
- Unit 2 deer regulations that implement a subsistence priority should be narrowly applied to specific geographic areas, to ensure they do not unnecessarily restrict non-subsistence hunting.
- It is important to enhance deer habitat and increase carrying capacity.
- It is important to the Island and regional economy to not restrict opportunities for outfitters/guides.

Chair Don Hernandez noted that the Federal Subsistence Board is beginning the process of reevaluating which communities in Alaska should be designated as “rural” under ANILCA. The Regional Advisory Council has supported changing the designation of Ketchikan from “urban” to “rural,” which would give Ketchikan residents federal subsistence rights. Subcommittee members Dolly Garza and Tom Skultka met with the Ketchikan Indian Corporation (KIC) about the Board process and KIC has submitted a resolution requesting that a public hearing be held in Ketchikan. A hearing may be held in the fall of 2005.

Appendix C
Memo from USDA Office of the General Counsel Re: Subsistence
Priority Questions for Unit 2 Deer (March 2005)



United States Department of Agriculture
Office of the General Counsel
Pacific Region
Juneau Office

P.O. Box 21628
Juneau, Alaska 99802
(907) 586-8826 / Fax: (907) 586-7251
Email: jim.ustasiewski@usda.gov

March 14, 2005

TO: Steve Kessler
Regional Subsistence Program Leader

FROM: James J. Ustasiewski /s/
Senior Counsel

SUBJECT: Subsistence Priority Questions for Unit 2 Deer

You have asked our office for assistance in responding to certain questions regarding the application of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. §§ 3111–3126, to deer hunting within Unit 2, which consists principally of lands in the Tongass National Forest.⁶ The questions originate from a subcommittee of the Southeast Regional Advisory Council that is considering Unit 2 deer hunting issues.

Issue

In general, the questions concern whether or not the taking of deer in Unit 2 for subsistence uses may be restricted without first eliminating the non-subsistence taking of such deer. In specific terms, one question is whether or not the hunting of doe in Unit 2 could be eliminated or restricted without first eliminating the non-subsistence hunt. A related question is whether or not subsistence harvest limits for deer in Unit 2, if increased due to the health of Unit 2 deer populations, may later be decreased without first eliminating non-subsistence hunting.

Discussion

Title VIII requires that subsistence uses receive a priority over non-subsistence uses:

Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. * * *

§ 804, 16 U.S.C. § 3114 (2000). This priority for subsistence requires a meaningful preference for subsistence uses but does not require the elimination of non-subsistence uses before imposing any restrictions upon subsistence uses. *Ninilchik Traditional Council v. United States*, 227 F.3d 1186, 1192–93 (9th Cir. 2000). Further, the subsistence priority allows the Federal Subsistence

⁶ Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the western-most point on Warren Island. 36 C.F.R. § 242.26(n)(2) (2004).

Board to balance subsistence uses with conservation and recreational uses. *Id.* at 1193.

The dispute in the *Ninilchik* case centered around the Federal Subsistence Board's determination to impose an antler-size restriction on moose that may be taken for subsistence purposes in Unit 15, an area covering the western half of the Kenai Peninsula in south-central Alaska. The Ninilchik Traditional Council (NTC) filed a complaint in federal district court in Alaska, arguing that the Board violated Title VIII's subsistence priority by not eliminating all non-subsistence hunting of moose on the Kenai Peninsula before imposing any restrictions on subsistence hunting. To give effect to the priority, the Board had granted subsistence hunters the exclusive opportunity to hunt moose before the hunting season opened to non-subsistence hunters. The Board based its limitation of the moose available to subsistence hunters under the antler-size restriction (the same moose available to non-subsistence hunters) upon the need to provide for the continued viability of the moose population by protecting moose of the best breeding age.

Following the district court's decision that the Board's action was consistent with Title VIII's subsistence priority, the Ninth Circuit court of appeals affirmed in part and reversed in part. First, rejecting NTC's argument to review the Board's action without giving any deference to the Board's interpretation of the subsistence priority, the Ninth Circuit found it appropriate to defer to the Board's reasonable interpretation of the subsistence priority.

In so doing, the *Ninilchik* court rejected an argument that section 804 requires the Board to eliminate non-subsistence uses before restricting subsistence uses:

Read as a whole, then, ANILCA provides for a number of important purposes all of which must be balanced by the Secretary of the Interior. Subsistence living, though at the heart of ANILCA, is not a per se preemptive statutory priority. Our case law does not require us to find otherwise. NTC contends that we have held, in *Alexander* and *Kenaitze Indian Tribe*, that if any use restrictions are necessary, the Board must eliminate nonsubsistence uses before circumscribing subsistence uses. We did not, however, reach such a specific level of analysis in these cases with respect to the meaning of the term "priority" and instead made general statements paraphrasing § 3114 [ANILCA section 804]: subsistence users living in rural areas have priority in the taking of fish and wildlife over nonsubsistence users, *see Kenaitze Indian Tribe*, 860 F.2d at 317; subsistence uses may not be restricted unless necessary to protect the continued viability of fish and wildlife populations, *see id.*; *Alexander*, 938 F.2d at 945; and subsistence uses, if they need to be restricted, must be limited according to the criteria outlined in § 3114, *see id.* at 946 n. 7. The Board's interpretation of the priority requirement does not contravene these provisions.

Id. at 1192–93 (underlining added). The court went further to hold that the Federal Subsistence Board reasonably interpreted the subsistence priority "as allowing it to balance the competing aims of subsistence use, conservation, and recreation, while at the same time providing subsistence hunters with a meaningful use preference...." *Id.* at 1193.

In short, Section 804 requires a meaningful preference for subsistence over non-subsistence hunting and allows the balancing of ANILCA's competing aims of subsistence, conservation and recreation, including sport hunting. It does not per se require the elimination of non-subsistence hunting before a restriction of subsistence hunting.

Applying this understanding of Title VIII to the facts in the *Ninilchik* case, the Ninth Circuit found that the antler-size restriction was necessary to protect the continued viability of the bull moose population in Unit 15, as required by Title VIII. *Id.* at 1195. Further, the court upheld the Board's determination that a ten-day advance season for subsistence hunting in Units 15B and 15C qualified as a meaningful preference for subsistence, because the administrative record showed that the largest percentage of the moose harvest takes place during the first five days of a season, and that a ten-day advance season would allow for 25 to 28 additional moose to be taken by subsistence hunters. *Id.* However, the court also found a lack of support in the administrative record for limiting the subsistence hunting season to just a two-day advance season in Unit 15A. *Id.* at 1195–96. In that regard, the court found insupportable limiting the advance season to two days on the basis of preventing conflicts with a state-regulated non-subsistence bow hunt. *Id.*

1. Eliminating or restricting the doe hunt

Just as the antler-size restriction in the *Ninilchik* case applied to subsistence hunting for moose without first eliminating non-subsistence hunting, so may subsistence hunting for antler-less⁷ deer in Unit 2 be eliminated or restricted without first eliminating all non-subsistence deer hunting. Title VIII requires that subsistence hunters have a meaningful preference over non-subsistence hunters in regard to Unit 2 deer, and allows for the balancing of subsistence, conservation and sport hunting. Precisely what constitutes a meaningful preference for subsistence hunters to Unit 2 deer depends upon the particular circumstances present in Unit 2, but eliminating or restricting the hunting of antler-less deer there for subsistence would be justifiable under Title VIII if doing so were necessary, for example, to protect the continued viability of the deer population.

2. Reducing deer harvest limits without eliminating the non-subsistence hunt

The same reasoning that applied to answering the first question above likewise applies to the second question regarding whether subsistence harvest limits for deer in Unit 2, if increased due to the health of Unit 2 deer populations, may subsequently be decreased without first eliminating non-subsistence hunting. Title VIII requires that subsistence hunters have a meaningful preference over non-subsistence hunters in regard to Unit 2 deer, and allows the balancing of subsistence, conservation and sport hunting. As above, a meaningful preference for subsistence hunters to Unit 2 deer depends upon the particular circumstances present in Unit 2, but if, for example, doing so were necessary to protect the continued viability of the deer population in Unit 2, decreasing the harvest limits for deer there for subsistence would be justifiable under Title VIII, even if non-subsistence hunting were not eliminated.

Summary

Title VIII does not per se require the elimination of non-subsistence uses before imposing a restriction upon subsistence uses.

⁷ With regard to Unit 2, federal regulations authorize the taking of four deer by federal registration permit, no more than one of which may be an antler-less deer taken during the period from October 15 to December 31. 36 C.F.R. § 242.26(n)(2). Accordingly, this memorandum refers to antler-less deer, rather than doe.

Appendix D
Joint State and Federal Hunting Report Form



UNIT 2 - DEER

ALASKA DEPARTMENT OF FISH & GAME / USDA FOREST SERVICE HUNTING REPORT



CONDITIONS

You may take up to four deer in Unit 2 in accordance with the current State of Alaska and Federal Subsistence Hunting Regulations and conditions described below:

State:

Residents and Nonresidents: Four (4) bucks, harvest tickets required. Season dates Aug. 1 - Dec. 31. The Federal public lands on Prince of Wales Island are closed to hunting of deer from Aug. 1 to Aug. 15, except by Federally-qualified subsistence users.

Federal:

Rural residents of Units 1(A), 2 and 3: Four (4) deer; however, no more than one (1) may be an antlerless deer. Antlerless deer may be taken only during the period Oct. 15 - Dec. 31. State harvest tickets required. Season dates July 24 - Dec. 31. From July 24-31 you may only hunt on Federal public land.

Evidence of sex:

Evidence of sex must remain naturally attached to the meat or antlers must remain naturally attached to the entire carcass, with or without viscera, until arrival at the location where it is to be consumed.

Reporting:

Successful and unsuccessful hunters **must** complete and return the hunt report by **January 15, 2006** in compliance with 5AAC 92.010 and 36CFR242.6(d). If you harvest deer in other Units in Southeast Alaska in addition to Unit 2 (Units 1, 3-5) please report those on this form also. If you plan to report hunting in Unit 4 after December 31, you have until February 15th to report.

ADF&G / USDA FOREST SERVICE DEER HUNTING REPORT

2005/2006 DEER SEASON



Did you hunt deer in Southeast Alaska between July 24, 2005 and January 31, 2006?

Reporting No. 2005RD7909000001-N6

No If No, you are finished. Mail this report. Thanks.

State Deer Harvest Ticket No.

Yes If Yes, complete the following information for each **successful** or **unsuccessful** trip **YOU** made specifically to hunt deer.

Include only deer you killed, not those of others in your party. **Include deer you killed for someone else** as a state "proxy" or federal "designated hunter". **Do not report deer someone else killed for you** as a proxy or designated hunter.

SPECIFIC LOCATION OF TRIP (please identify Bay, Shore [N, E, S, or W], Drainage, and Island/mainland)	Unit of Hunt	No. of bucks killed	No. of does killed	No. of days hunted	Month of Trip	Transportation Used to get to Hunt Area (boat, plane, car, etc.)
Example FS Road 21 near Polk Inlet, POW	2	0	0	2	10	car
1.						
2.						
3.						
4.						
5.						
6.						
Summary of additional deer hunting trips (not reported above)						

Did you hunt deer for someone else as a state proxy hunter? Y ___ N ___; as a federal designated hunter? Y ___ N ___

If yes, how many of the deer reported above did you take as a proxy? _____; as a designated hunter? _____

How many deer did you see while hunting in Southeast Alaska? _____ In Unit 2? _____

UNIT 2 - DEER

ALASKA DEPARTMENT OF FISH & GAME / USDA FOREST SERVICE HUNTING REPORT

Unit 2 Deer Supplemental Overlay



Reporting No.	State Deer Harvest Ticket No.
2005RD7909000001-N6	

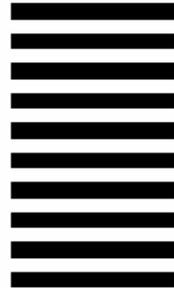
Instructions to Vendor

1. Complete this portion of the form and return it to the Alaska Department of Fish & Game.
2. Be sure the State Deer Harvest Ticket No. on this overlay is filled in from the state deer harvest tickets.
3. Write the Reporting No. and the State Deer Harvest Ticket No. on the back of the hunter's license and the Harvest Ticket No. on the hunting report card above.

US FISH AND WILDLIFE SERVICE
Alaska Department of Fish & Game
Division of Wildlife Conservation
PO Box 240020
Douglas, Alaska 99824-9989



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