



City and Borough of Wrangell
Borough Assembly Meeting
AGENDA

Tuesday, February 14, 2023
6:00 PM

Location: Borough Assembly Chambers

1. CALL TO ORDER

- a. PLEDGE OF ALLEGIANCE led by Assembly Member Ryan Howe
- b. CEREMONIAL MATTERS - None.

2. ROLL CALL

3. PERSONS TO BE HEARD

4. AMENDMENTS TO THE AGENDA

5. CONFLICT OF INTEREST

6. CONSENT AGENDA

*Matters listed under the consent agenda are routine and will be enacted by one motion and one vote. there will be no separate discussion of these items. **If the borough mayor, assembly member, manager, or clerk requests discussion on any item, that item will be removed from the consent agenda and will be considered under unfinished business (no motion is necessary to move an item from the consent agenda).***

MOTION ONLY: *Move to Approve the Consent Agenda, as submitted.*

- [a.](#) Minutes from the January 24, 2023 Regular Assembly Meeting
- [b.](#) Renewal Liquor License Notice for License No. 370 (BPO Elks Lodge #1595)
- [c.](#) CORRESPONDENCE: Minutes from the Regular School Board meeting of December 19, 2022

7. BOROUGH MANAGER'S REPORT

- a. Economic Development Report / Update
- b. Infrastructure Report / Update
- c. Financial Report / Update

8. BOROUGH CLERK'S REPORT

- [a.](#) Borough Clerk's Report

9. MAYOR AND ASSEMBLY BUSINESS

10. MAYOR AND ASSEMBLY APPOINTMENTS

- [a.](#) Investment Committee Vacancy Appointment

11. PUBLIC HEARING

- a.** **ORDINANCE No. 1035** OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS IN CHAPTER 5.10, PURCHASES AND SALES, OF THE WRANGELL MUNICIPAL CODE

12. UNFINISHED BUSINESS

13. NEW BUSINESS

- a.** **ORDINANCE No. 1036** OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS IN CHAPTER 18.04, BUILDING CODE; CHAPTER 20.68, CONDITIONAL USE PERMITS; CHAPTER 20.72, VARIANCES; AND CHAPTER 20.76, AMENDMENTS, AND ESTABLISHING A NEW PROCESS FOR RATES AND FEES IN THE WRANGELL MUNICIPAL CODE BY ADDING THE FEES TO THE ESTABLISHED FEE AND RATE SCHEDULE
- b.** Approval of Consent to Assignment of Leased Tidelands from Patty Kautz to Rolland Wimberley, dba Wolf's Den Rentals LLC
- c.** Approval to move the Art Gallery into the Nolan Center's Small Theater
- d.** Approval of Tidelands Lease Renewal for Lot 7, Block 83-A, Wrangell Tidelands Addition for Lynne Campbell
- e.** Discussion and possible direction for a resolution to support the Alaska Trollers Association against a lawsuit to stop the Chinook Salmon fishery in southeast Alaska
- f.** Approval to add the City and Borough of Wrangell to the Klawock, AK Fish and Game Advisory Council petition against placing the Alexander Archipelago Wolf in Southeast Alaska as threatened or endangered under the U.S. Endangered Species Act

14. ATTORNEY'S FILE – Available for Assembly review in the Borough Clerk's office

15. EXECUTIVE SESSION - None.

16. ADJOURNMENT

**Minutes of Regular Assembly Meeting
Held on January 24, 2023**

Mayor Patricia Gilbert called the Regular Assembly meeting to order at 7:00 p.m., January 24, 2023, in the Borough Assembly Chambers. Assembly Member Robbins led the pledge of allegiance, and the roll was called.

PRESENT - ROBBINS, DALRYMPLE, GILBERT, DEBORD, POWELL, MORRISON

ABSENT - HOWE

Borough Manager Jeff Good and Clerk Lane were also present.

PERSONS TO BE HEARD

Kevin Jones spoke about an Economic Development proposal and on some potential opportunities in Wrangell; strategized with other members and came up with a proposal that they believe would add to the continued growth and job market in Wrangell; stated that because there are no affordable housing opportunities right now in Wrangell; believes that Wrangell and its residents will benefit from their proposal to bring housing to Wrangell.

AMENDMENTS TO THE AGENDA

Dalrymple requested that Item 6a Resolution No. 01-23-1739 be moved from the Consent Agenda to Unfinished Business. There were no objections from the Assembly.

CONFLICT OF INTEREST - None.

CONSENT AGENDA

6a ~~**RESOLUTION No. 01-23-1739** A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AUTHORIZING PARTICIPATION IN A U.S. DEPARTMENT OF TRANSPORTATION REBUILDING AMERICAN INFRASTRUCTURE WITH SUSTAINABILITY AND EQUITY (RAISE) GRANT PROGRAM AND COMMITMENT OF FUNDS FOR PROJECT COST OVERRUN OR PROJECT COSTS EXCEEDING \$25 MILLION DOLLARS~~ *(this item was removed from the Consent Agenda and was placed under Unfinished Business)*

6b Minutes from the January 10, 2023, Regular Assembly Meeting

6c CORRESPONDENCE: 2022 Wrangell Police Statistics

6d CORRESPONDENCE: Minutes from the November 11, 2022, Regular School Board Meeting

M/S: Morrison/Robbins to approve the Consent Agenda, as restructured. Motion approved unanimously by polled vote.

BOROUGH MANAGER'S REPORT

Manager Good's report was given.

BOROUGH CLERK'S REPORT

Clerk Lane's report was given.

MAYOR AND ASSEMBLY BUSINESS

Dalrymple reported on the Economic Development Committee; stated that Mr. Freeman gave a presentation, and the Mill Site was brought up.

Powell stated that he attended the Planning & Zoning Commission meeting and was able to see the presentation from Mr. Freeman.

MAYOR AND ASSEMBLY APPOINTMENTS

10a Investment Committee Vacancy Appointment

There were no letters of interest received. Mayor Gilbert stated that we would continue to advertise for the vacancy.

PUBLIC HEARING

11a ORDINANCE No. 1034 OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING SECTION 8.02.010 IN CHAPTER 8.02, ADMISSION RATES FOR THE MUSEUM/CIVIC CENTER AND ESTABLISHING A NEW PROCESS FOR RATES AND FEES IN THE WRANGELL MUNICIPAL CODE BY ADDING THE RATES TO THE ESTABLISHED FEE AND RATE SCHEDULE

Mayor Gilbert called the Public Hearing to order and asked for an administrative report.

Good explained that this public hearing is to pull the rates from the Code and place them in the Fee and Rate Schedule.

Gilbert asked if there were any persons wishing to speak on this item.

Gilbert closed the public hearing and asked for a motion.

M/S: Morrison/Powell to approve Ordinance No. 1034. Motion approved unanimously by polled vote.

11b RESOLUTION No. 01-23-1747 OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, ESTABLISHING THE FEE AND RATE SCHEDULE FOR THE MUSEUM/CIVIC CENTER

Mayor Gilbert called the Public Hearing to order and asked for an administrative report.

Good explained that this is the Resolution that sets the rates for the Nolan Center.

Gilbert asked if there were any persons wishing to speak on this item.

Gilbert closed the public hearing and asked for a motion.

M/S: Powell/Dalrymple to approve Resolution No. 01-23-1747. Motion approved unanimously by polled vote.

11c Approval to move forward with the Sale of City-Owned Filled Tidelands, Lot 15, Block 1-A, ATS 83, currently leased by James D. Leslie, requested by James D. Leslie

Mayor Gilbert called the Public Hearing to order and asked for an administrative report.

Good explained that this public hearing is required when someone applies to purchase borough owned tidelands; All costs will be charged to the applicant.

Gilbert asked if there were any persons wishing to speak on this item.

Gilbert closed the public hearing and asked for a motion.

M/S: Dalrymple/Morrison to approve moving forward with the Sale of City-Owned Filled Tidelands, Lot 15, Block 1-A, ATS 83.

Dalrymple asked Manager Good if selling these tidelands would be in the best interest of the borough.

Good stated that yes, it would be because the tidelands are filled now so the appraisal amount will be higher than unfilled tidelands and if sold, we can charge property taxes on the property.

Motion approved unanimously by polled vote.

UNFINISHED BUSINESS

12a Provide the Borough Manager the authority to negotiate and approve a short-term lease of 3 months with a month-to-month lease thereafter with Channel Construction for 2 acres at the 6-mile property to be used as a transfer and storage facility of scrap metal

M/S: Powell/Robbins to approve giving the Borough Manager the authority to negotiate and approve a short-term lease with Channel Construction. Motion approved unanimously by polled vote.

6a-12b RESOLUTION No. 01-23-1739 A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AUTHORIZING PARTICIPATION IN A U.S. DEPARTMENT OF TRANSPORTATION REBUILDING AMERICAN INFRASTRUCTURE WITH SUSTAINABILITY AND EQUITY (RAISE) GRANT PROGRAM AND COMMITMENT OF FUNDS FOR PROJECT COST OVERRUN OR PROJECT COSTS EXCEEDING \$25 MILLION DOLLARS (moved from the Consent Agenda for consideration)

M/S: Powell/Morrison to approve Resolution No. 01-23-1730. Motion approved unanimously by polled vote.

NEW BUSINESS

13a ORDINANCE No. 1035 OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS IN CHAPTER 5.10, PURCHASES AND SALES, OF THE WRANGELL MUNICIPAL CODE

M/S: Powell/Robbins to approve first reading of Ordinance No. 1035 and move to a Second Reading with a Public Hearing to be held on February 14, 2023. Motion approved unanimously by polled vote.

13b RESOLUTION No. 01-23-1752 OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA AMENDING THE FY 2023 BUDGET IN THE GENERAL FUND TRANSFERRING \$30,000 FROM THE GENERAL FUND RESERVES TO THE PARKS & RECREATION DEPARTMENT CIP FUND FOR THE POOL REPAIR PROJECT AND AUTHORIZING ITS EXPENDITURES

M/S: Powell/Robbins to approve Resolution No. 01-23-1752. Motion approved unanimously by polled vote.

13c Approval of a Professional Services Agreement with R&M Engineering-Ketchikan, Inc. in the Amount of \$109,616 for the Alder Top Village Subdivision Road & Utilities Design Project

M/S: Morrison/Powell to approve a Professional Services Agreement with R&M Engineering-Ketchikan, Inc. in the amount of \$109,616 for the Alder Top Village Subdivision Road & Utilities Design Project. Motion approved unanimously by polled vote.

13d Approval for Staff to proceed with the Property Tax Foreclosures for the tax years 2017 to 2022 per Wrangell Municipal Code 05.04.370

M/S: Powell/Robbins to authorize Staff to proceed with the Property Tax Foreclosures for the tax years 2017 to 2022 per Wrangell Municipal Code 05.04.370. Motion approved unanimously by polled vote.

ATTORNEY'S FILE – Available for Assembly review in the Borough Clerk's office

EXECUTIVE SESSION - None.

Regular Assembly Meeting adjourned at 7:48 p.m.

Patricia Gilbert, Borough Mayor

ATTEST: _____
Kim Lane, MMC, Borough Clerk



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Commerce, Community,
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

Item b.

January 28, 2023

City and Borough of Wrangell
Via Email: clerk@wrangell.com

Re: Notice of 2023/2024 Liquor License Renewal Application

License Type:	Club	License Number:	370
Licensee:	BPO Elks Lodge #1595		
Doing Business As:	BPO Elks Lodge #1595		

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

A handwritten signature in cursive script that reads "Joan M. Wilson".

Joan Wilson, Director
amco.localgovernmentonly@alaska.gov

STATE OF ALASKA - ALCOHOLIC BEVERAGE CONTROL BOARD

LICENSE NUMBER

FORM CONTROL

XXXX

ISSUED
01/28/2023
ABC BOARD

LIQUOR LICENSE
2023 - 2024
TEMPORARY

370

LICENSE RENEWAL APPLICATION DUE
DECEMBER 31, 2024 (AS 04.11.270(b))THIS LICENSE EXPIRES MIDNIGHT
FEBRUARY 28, 2025 UNLESS DATED BELOW

TYPE OF LICENSE: Club

LICENSE FEE: \$1,200.00

1110

CITY / BOROUGH: Wrangell
WrangellD/B/A: BPO Elks Lodge #1595
103 Front St.Mail Address:
BPO Elks Lodge #1595
PO Box 377
Wrangell, AK 99929This license cannot be transferred without permission
of the Alcoholic Beverage Control Board☐ Special restriction - see reverse sideISSUED BY ORDER OF THE
ALCOHOLIC BEVERAGE CONTROL BOARD

DIRECTOR

04-900 (REV 10/20/22)

THIS LICENSE MUST BE POSTED IN A VISIBLE PLACE ON THE PREMISES

STATE OF ALASKA - ALCOHOLIC BEVERAGE CONTROL BOARD

LICENSE NUMBER

FORM CONTROL

XXXX

ISSUED
01/28/2023
ABC BOARD

LIQUOR LICENSE
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ALCOHOLIC BEVERAGE CONTROL BOARD

DIRECTOR

D/B/A: BPO Elks Lodge #1595
103 Front St.Mailing Address:
BPO Elks Lodge #1595
PO Box 377
Wrangell, AK 99929

THIS LICENSE MUST BE POSTED IN A VISIBLE PLACE ON THE PREMISES

04-900 (REV 5/9/22)



AB-17: 2023/2024 License Renewal Application

Alcohol and Marijuana Control Office

550 W 7th Avenue,

Suite 1600

Anchorage, AK 99501

alcohol.licensing@alaska.gov<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-17: 2023/2024 General Renewal Application

- This form and any required supplemental forms must be completed, signed by the licensee, and postmarked no later than 12/31/2022 per AS 04.11.270, 3 AAC 304.160, with all required fees paid in full, or a non-refundable \$500.00 late fee applies.
- Any application for renewal or any fees for renewal that have not been postmarked by 2/28/2023 will be expired per AS 04.11.540, 3 AAC 304.160(e).
- All fields of this application must be deemed complete by AMCO staff and must be accompanied by the required fees and all documents required, or the application will be returned without being processed, per AS 04.11.270, 3 AAC 304.105
- Receipt and/or processing of renewal payments by AMCO staff neither indicates nor guarantees in any way that an application will be deemed complete, renewed, or that it will be scheduled for the next ABC Board meeting.

Section 1 - Establishment Contact Information

Licensee (Owner):	BPO Elks Lodge #1595	License #:	370
License Type:	Club		
Doing Business As:	BPO Elks Lodge #1595		
Local Governing Body:	Wrangell		
Community Council:			

If your mailing address has changed, write the NEW address below:

Mailing Address:			
City:	State:	ZIP:	

Section 2 - Licensee Contact Information

Contact Licensee: The individual listed below must be part of the ownership structure of the licensee listed in Section 1. This person will be the designated point of contact regarding this license, unless the Optional contact is completed.

Contact Licensee:	SHIRLEY CLARK	Contact Phone:	907-305-0909
Contact Email:	WRANGELL1595@outlook.com		

Optional: If you wish for AMCO staff to communicate with anyone other than the Contact Licensee (such as legal counsel) about your license, list their information below:

Name of Contact:	Contact Phone:
Contact Email:	

Section 3 - for Package Stores ONLY: Written Order Information

Do you intend to sell alcoholic beverages and ship them to another location in response to written solicitation in calendar years 2022 and/or 2023?

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>

OCT 31 2022

**Form AB-17: 2023/2024 License Renewal Application****Section 4 – Ownership Structure Certification**

YES

NO

Did the ownership structure of the licensed business change in 2021/2022?

☐☒If Yes, and you have **NOT** notified AMCO, list the updated information on form AB-39: Change of Officers and submit with your renewal application.

If No, certify the statement below by initialing the box to the right of the statement.

I certify that the ownership structure of the business who owns this alcohol license did not change in any way during the calendar years 2021 or 2022.

Section 5 – License Operation**Check ONE BOX for EACH CALENDAR YEAR** that best describes how this liquor license was operated:

2021

2022

1. The license was **operated for more than 240 hours** throughout each year.
(Year-round)

☒☒

2. The license was **only operated during a specified time** each year. (Not to exceed 6 months per year)

If your operation dates have changed, list them below:

_____ to _____

☐☐

3. The license was only operated to meet the minimum requirement of 240 total hours each calendar year.
A complete AB-30: Proof of Minimum Operation Checklist, and all documentation must be provided with this form.

☐☐

4. The license was not operated at all or was not operated for at least the minimum requirement of 240 total hours each year, during one or both calendar years. A complete Form AB-29: Waiver of Operation Application and corresponding fees must be submitted with this application for each calendar year during which the license was not operated.
If you have not met the minimum number of hours of operation in 2021, you are not required to pay the fees, however a complete AB-29 is required with Section 2 marked "Other" and COVID is listed as the reason.

☐☐**Section 6 - Violations and Convictions**

YES

NO

Have **ANY** Notices of Violation been issued for this license?☐☒Has **ANY** person or entity in this application been convicted of a violation of Title 04, 3AAC 304 or a local ordinance adopted under AS 04.21.010 in 2021 or 2022?☐☒**If you checked YES, you MUST attach a list of all Notices of Violation and/or Convictions per AS 04.11.270(a)(2)****If you are unsure if you have received any Notices of Violation, contact the office before submitting this form.****Section 7 – Certifications**

As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, are true, correct, and complete.

- I agree to provide all information required by the Alcoholic Beverage Control Board or requested by AMCO staff in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned and the license being potentially expired if I do not comply with statutory or regulatory requirements.
- I certify that in accordance with AS 04.11.450, no one other than the licensee(s), as defined in AS 04.11.260, has a direct or indirect financial interest in the licensed business.
- I certify that this entity is in good standing with Corporations, Business and Professional Licensing (CBPL) and that all entity officials and stakeholders are current and I have provided AMCO with all required changes of the ownership structure of the business license, and have provided all required documents for any new or changes of officers.

AMCO

OCT 31 2022

**Form AB-17: 2023/2024 License Renewal Application**

- I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check identification of patrons have completed an alcohol server education course approved by the ABC Board and keep current, valid copies of their course completion cards on the licensed premises during all working hours, if applicable for this license type as set forth in AS 04.21.025 and 3 AAC 304.465.

I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted are true and correct. I understand that any falsification or misrepresentation of any item or response in this application, or any attachment, or documents to support this application, is sufficient grounds for denying or revoking a license/permit. I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

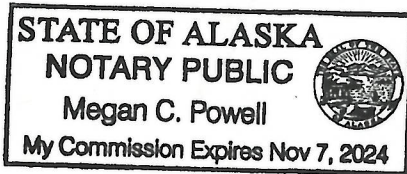
Shirley J. Clark
Signature of licensee

Megan C. Powell
Signature of Notary Public

SHIRLEY CLARK
Printed name of licensee

Notary Public in and for the State of Alaska

My commission expires: Nov. 7, 2024



Subscribed and sworn to before me this 24th day of October, 2023

Restaurant and Eating Place applications must include a completed AB-33: Restaurant Receipts Affidavit

Recreational Site applications must include a completed AB-36: Recreational Site Statement

Tourism applications must include a completed AB-37: Tourism Statement

Wholesale applications must include a completed AB-25: Supplier Certification

Common Carrier applications must include a current safety inspection certificate

All renewal and supplemental forms are available online:

<https://www.commerce.alaska.gov/web/amco/AlcoholLicenseApplication.aspx>

FOR OFFICE USE ONLY

License Fee:	\$ <u>1200</u>	Application Fee:	\$ 300.00	Misc. Fee:	\$
Total Fees Due:					\$ <u>1500</u>

100481342

AMCO

OCT 31 2022

Details

ENTITY DETAILS

Name(s)

Type	Name
Legal Name	WRANGELL ELKS LODGE NO. 1595,BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE UNITED STATES OF AMERICA

Entity Type: Nonprofit Corporation

Entity #: 47627D

Status: Good Standing

AK Formed Date: 4/25/1991

Duration/Expiration: Perpetual

Home State: ALASKA

Next Biennial Report Due: 7/2/2023

Entity Mailing Address: PO BOX 377, WRANGELL, AK 99929-0377

Entity Physical Address: 103 FRONT STREET, WRANGELL, AK 99929-0377

Registered Agent

Agent Name: Shirley Clark

Registered Mailing Address: PO BOX 377, WRANGELL, AK 99929

Registered Physical Address: 103 FRONT ST, WRANGELL, AK 99929

Officials

☐ Show Former

AK Entity #	Name	Titles	Owned
	Carrie Wallace	Director	
	Chris Stewart	Director	
	DAWN ANGERMAN	Director	
	DUSTIN PHILLIPS	Vice President	
	Gloria Benson	Treasurer	
	Karl Gladsjo	Director	
	Kevin Stutz	President	
	Shirley Clark	Secretary	
	STEVE HENSON	Director	

Filed Documents

Date	Type	Filing	Certificate
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Date Filed	Type	Filing	Certificate	Item b.
4/25/1991	Biennial Report			
4/25/1991	Creation Filing			
8/25/1993	Biennial Report	Click to View		
12/04/1995	Biennial Report	Click to View		
6/17/1997	Biennial Report	Click to View		
6/30/1999	Biennial Report	Click to View		
6/25/2001	Biennial Report	Click to View		
6/19/2002	Change of Officials	Click to View		
3/24/2003	Change of Officials	Click to View		
5/20/2003	Amendment	Click to View		
6/23/2003	Biennial Report	Click to View		
4/08/2004	Change of Officials	Click to View		
6/15/2005	Biennial Report	Click to View		
3/30/2008	Biennial Report	Click to View		
5/01/2008	Agent Change	Click to View		
7/22/2010	Biennial Report	Click to View		
1/24/2013	Biennial Report	Click to View		
5/02/2014	Biennial Report	Click to View		
5/13/2015	Biennial Report	Click to View		
12/15/2016	Change of Officials	Click to View		
4/27/2017	Biennial Report	Click to View		
6/27/2018	Change of Officials	Click to View		
4/12/2019	Biennial Report	Click to View		
6/03/2019	Change of Officials	Click to View		
4/09/2020	Change of Officials	Click to View		
4/11/2021	Biennial Report	Click to View		
5/20/2021	Change of Officials	Click to View		
3/24/2022	Change of Officials	Click to View		

[Close Details](#) [Print Friendly Version](#)

PROCEEDINGS

MINUTES WRANGELL SCHOOL BOARD REGULAR MEETING

December 19, 2022, 6:30 PM
Via Zoom

School Board Vice-president Brittani Robbins called the regular meeting of the Wrangell Public School Board to order at 6:38 PM.

CALL TO ORDER

A quorum was determined with the following school board members present Angela Allen, Brittani Robbins, and Elizabeth Roundtree. David Wilson arrived at 6:39 PM. Esther Ashton was excused. Also, present was Superintendent Bill Burr, Recording Secretary Kimberly Powell, and Student Representative Kiara Harrison.

DETERMINE QUORUM

The Pledge of Allegiance was recited, led by Angela Allen

PLEDGE OF ALLEGIANCE

Board President Wilson arrived at 6:39 PM and Vice-president Robbins passed the gavel to him.

PASSING OF THE GAVEL
TO PRESIDENT WILSON

The District Mission, Vision and Values were recited by Board President Wilson.

DISTRICT MISSION,
VISION, AND VALUES
APPROVAL OF AGENDA

Motion to approve the agenda as presented, which includes the items on the consent agenda by Angela Allen, seconded by Brittani Robbins. Poll vote: Kiara Harrison: Yes; Angela Allen: Yes; Brittani Robbins: Yes; Elizabeth Roundtree: Yes, David Wilson: Yes. Motion passed.

- Approved the minutes of the November 21, 2022, Regular School Board meeting
- Offered Shanlee Meissner an extracurricular contract for the position of Junior Class Advisor, pending the receipt of a satisfactory criminal background check and a drug test
- Reviewed the resignation letters from Tom Jenkins IEA Director/Tutor and Peter Parks, Custodian
- Surplussed the man lift, inventory #00159, and offered it to the public for auction on PublicSurplus.com

There were no conflicts of interest declared.

CONFLICT OF INTEREST

Student Representative Kiara Harrison referred to her report in the Board Packet and told the School Board about the success the wrestlers had at the state tournament. Ethan Blatchley and Randy Churchill both won state titles. Kiara told the Board that she really enjoyed the Christmas Spirit week and the events hosted at the secondary schools.

STUDENT
REPRESENTATIVE
REPORT

There were no guests to be heard.

GUESTS TO BE HEARD

There was no correspondence.

REVIEWED
CORRESPONDENCE

Information & Reports were accepted by unanimous consent.

ACCEPTED
INFORMATION &
REPORTS
COVID-19 MITIGATION
UPDATE

Superintendent Burr told the School Board members that we have administered 150 Covid-19 tests and have not had a single positive result in our activities program. He's suggesting that we change the test to travel requirement to strongly encouraging students to test before travel beginning in 2023. An updated plan will be available at the January board meeting.

Motion to accept the second reading of Board Policy 7012, Communications to and from the Board to repeal Board Policy 7231, School Board Technology Usage and the second reading Board Policy 7324, Board Minutes as presented by Angela Allen, seconded by Brittani Robbins. Poll vote: Kiara Harrison: Yes; Elizabeth Roundtree: Yes; Angela Allen: Yes; Brittani Robbins: Yes; David Wilson: Yes. Motion approved

ACCEPTED THE SECOND
READING OF BOARD POLICY
7012 (REPEALING BOARD
POLICY 7231) AND BOARD
POLICY 7324

Motion to accept the first reading of Board Policy 7020, Board Standards and Board Policy 7400, Evaluation of School board Operational Procedures as presented by Angela Allen, seconded by Brittani Robbins. Poll vote: Kiara Harrison: Yes; Brittani Robbins: Yes; Elizabeth Roundtree: Yes; Angela Allen: Yes; David Wilson: Yes. Motion approved

ACCEPTED THE FIRST
READING OF BOARD POLICY
7020, BOARD STANDARDS AND
BOARD POLICY 7400,
EVALUATION OF SCHOOL
BOARD OPERATIONAL
PROCEDURES

Reviewed Board Policy 7271, Board Member Code of Ethics.

Reviewed the upcoming dates and meeting announcements.

There were no comments from Board Members.

Meeting Adjourned at 7:08 P.M.


SCHOOL BOARD SECRETARY

REVIEWED BOARD POLICY 7271,
BOARD MEMBER CODE OF
ETHICS
REVIEWED DATES & MTG
ANNOUNCEMENTS
BOARD MEMBER COMMUNITY
ACTIVITY REPORTS
ADJOURNED AT 7:08 P.M.

CITY & BOROUGH OF WRANGELL, ALASKA

BOROUGH CLERK'S REPORT

SUBMITTED BY: Kim Lane, MMC, Borough Clerk

Upcoming Meetings & Other Informational dates:

Other City Boards/Commissions:

February 15 – Parks & Recreation Board Mtg. at 5:30 pm in the Assembly Chambers

February 20 – City offices are for President's Day

Community Events:

Meetings and Other events of the Borough Assembly:

Please see below for the list of upcoming meetings for the Assembly.

Upcoming 2023 Work Sessions (scheduled), Public Hearings (scheduled), Regular Assembly Meetings, and Other Meetings (scheduled)

Date	Time	Purpose
February 14 (rescheduled to March 14 th)	6-7pm	WS: Fee and Rate Schedule
February 14	7pm	Regular Assembly Meeting
February 28	6-7pm	WS: Assessments & Property Taxes
February 28 (rescheduled to March 28 th)		Public Hearing for Fee & Rate Schedule
February 28	7pm	Regular Assembly Meeting
March 6 (Monday)	5:30pm	WS: School, Assembly, and Staff on School Budget & Facilities
March 14		NEW! WS: Fee and Rate Schedule
March 14	6pm	Regular Assembly Meeting
March 28	6-7pm	WS: Insurance
March 28		NEW! Public Hearing for Fee & Rate Schedule
March 28	7pm	Regular Assembly Meeting
April 11		No WS Scheduled (subject to change)
April 11	6pm	Regular Assembly Meeting
April 24 (Monday)	5:30pm	WS: FY 2023-24 Budget
April 25	6pm	Regular Assembly Meeting
May 8 (Monday)	5:30pm	Board of Equalization Meeting
May 9	6pm	Regular Assembly Meeting
May 23		Public Hearing for FY 2023-24 Budget
June 13	6pm	Regular Assembly Meeting (Mill Rate & FY 2023-24 Budget Adoption)
June 27	6pm	Regular Assembly Meeting

Code Review Committee:

The committee met to start exploring other municipalities code sections on Building Permit provisions and also on what some other municipalities charge for permits. We will be meeting again when our Capital Facilities Director can join us since this topic heavily involves that position. We are confident though that we can create a stronger code section than what we have.

On this agenda, there is an ordinance to remove all permit fees from the Wrangell Municipal Code and place them in the collective Fee and Rate Schedule for the Borough. At the next Assembly Meeting (under Public Hearing), there will be the second reading of the ordinance, along with a resolution that will adopt the fees. The plan is to raise the fees as follows.

<u>PERMITS and APPLICATIONS</u>		
Building Permit	Residential	<u>[\$100.00]</u> \$200.00
	Commercial	<u>[\$150.00]</u> \$300.00
	Remodeling and Miscellaneous (residential)	<u>[\$50.00]</u> \$100.00
	Remodeling and Miscellaneous (commercial)	<u>[\$100.00]</u> \$200.00
Conditional Use Permit	Application	<u>[\$50.00]</u> \$100.00
	After-the-fact application	<u>[\$150.00]</u> \$300.00
Variance Permit	Application	<u>[\$50.00]</u> \$100.00
	After-the-fact application	<u>[\$150.00]</u> \$300.00
Application for rezone petition	Application	<u>[\$75.00]</u> \$150.00

Updated Website:

The newly redesigned Website is up and running! We have received many compliments on the new design. The hope was to have a fresh new look as well as make the website easy to navigate through. I believe that we have accomplished this goal! For instance, you can view the Municipal Code in at least four different locations on the website! Trying to give forethought into what we believe visitors to our website might be looking for was challenging but I am happy with the result.



Here is a sample of what you will see when clicking on the Government mega menu

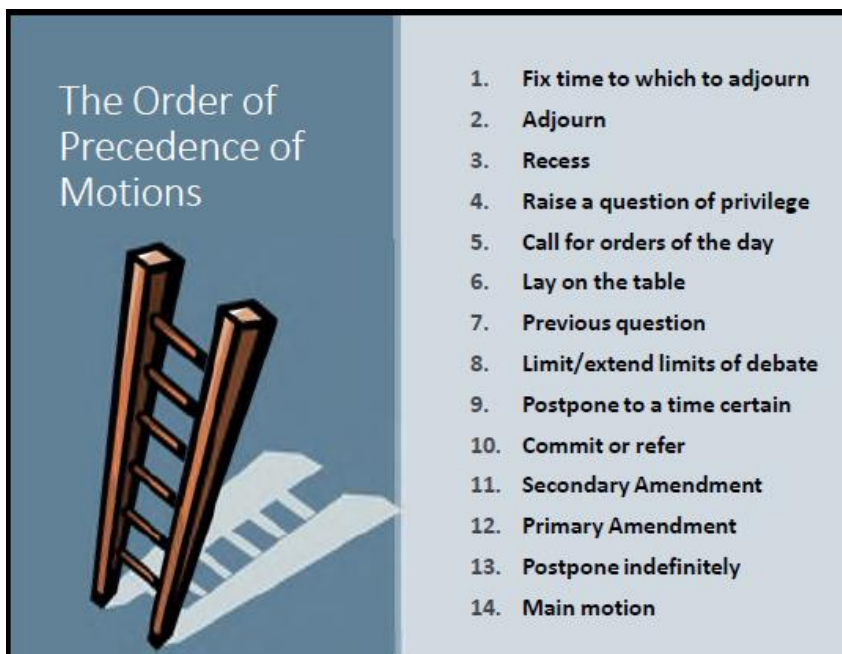


Parliamentary Tid Bits!

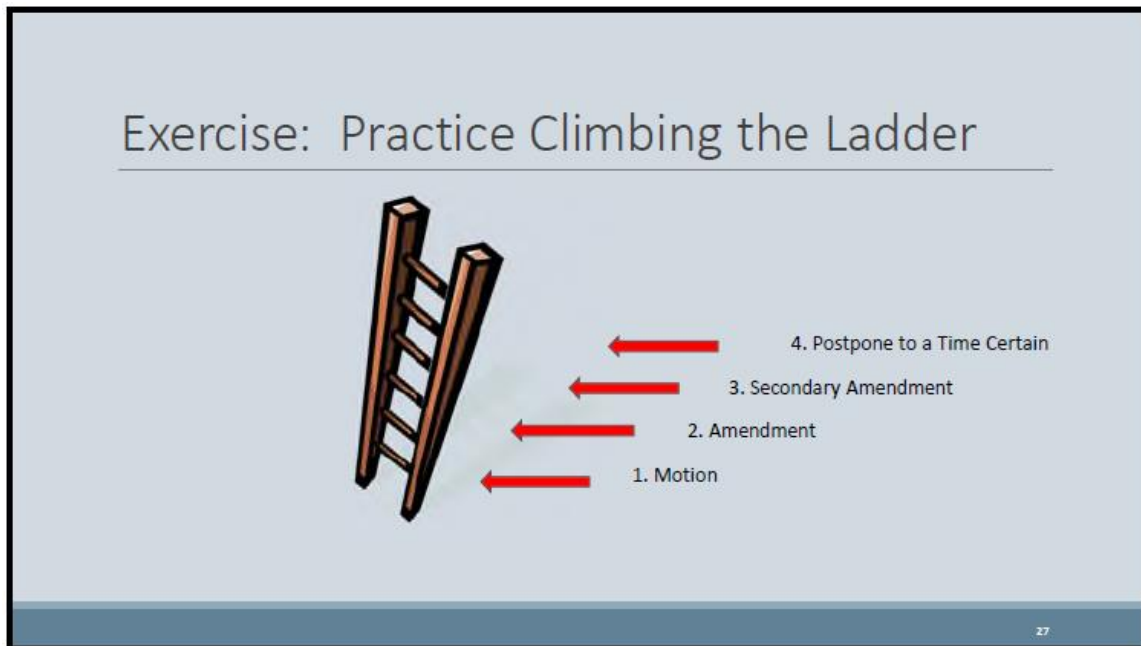
Let's talk about the "Ladder"!

The Assembly has a main motion (**Main Motion #14**) before them and a member makes a motion to amend the motion (**Primary Amendment #12**), another member makes a motion to amend the amendment (**Secondary Amendment #11**), and then a member makes a motion to postpone the item to a certain time (**Postpone to Certain Time #9**).

Every motion that is pending is a step up the rung of the ladder. When it is time to vote on the motion, you must come down the ladder, in reverse order of the steps taken up.



When any of the motions on this list is the immediately pending motion, any motion above it on the list can be made at that time. The motion below it on the list cannot be made at that time.



Explained: While discussing the main motion, a member moves to *amend* the main motion, that proposed amendment is in order because it is #12 on the list, and 12 is higher than 14 on the ladder.

While discussing the amendment, another member moves to make a *secondary amendment*. Secondary amendment is #11 and higher than #12 on the ladder, so it is in order.

While discussing the secondary amendment (#11) another member moves to *postpone* the motion to the next meeting. The motion to postpone to a certain time is #9 on the ladder. It is above #11 and is therefore in order.

While discussing the postponement (9), another member moves that this motion be *referred to a committee*... this motion is ruled “out of order”, because commit or refer is #10 on the ladder.

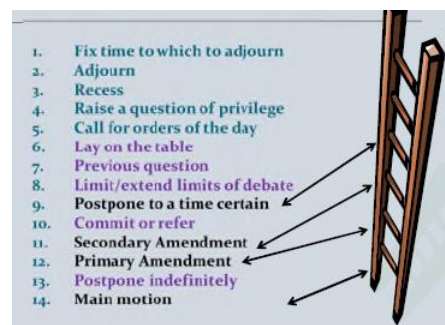
So, at this point, you have four different motions pending:

- #9 – Postpone to a time certain
- #11 – Secondary Amendment
- #12 – Primary Amendment
- #14 – Main Motion

Every motion that is pending is a step up the rung of the ladder. **When it is time to vote on the motion, you must come down the ladder, in reverse order of the steps you took up the ladder.**

We must now vote on those four motions in reverse order of how they were made.

- #9 – Postpone to Certain Time
- #11 – Secondary Amendment



- #12 – Primary Amendment
- #14 – Main Motion

In other words, the last motion made is the first one voted on and so on. So, let's follow these steps in order:

The Vote and the Ladder

Vote on the motion to postpone to a certain time.

- If this motion passes, the main motion and the amendments that are pending will be postponed along with it to the next meeting. At the next meeting, you will have three motions still pending.
- If the motion to postpone fails, you move down to the next pending motion on the ladder, which is the secondary amendment.

Vote on the secondary amendment.

- If the secondary amendment passes, the *primary amendment is now changed*. If it fails, you move down to the primary amendment as it was originally stated.

Vote on the primary amendment.

If the vote on the primary amendment passes, the main motion on the floor is now amended. If the primary amendment fails, the main motion on the floor is the original main motion.

Vote on the main motion.

If you skip any of those steps, you violate the rules and fall off the ladder!

CITY & BOROUGH OF WRANGELL, ALASKA BOROUGH ASSEMBLY AGENDA STATEMENT

<u>AGENDA ITEM TITLE:</u>	<u>DATE:</u>	February 14, 2023
	<u>Agenda Section</u>	10

Investment Committee Vacancy Appointment

<u>SUBMITTED BY:</u>	
Kim Lane, Borough Clerk	

RECOMMENDATION

Appointments are to be made by the Mayor, with the consent of the Assembly for the following vacancy:

<i>Board/Committee/Commission</i>	<i>Letter of Interest Received from:</i>
Investment Committee (1 avail. – Community Member)	1. None.

Procedure - Mayor: “I will appoint _____ to fill the vacancy on the _____ until October 2023.

If there are seats that are left vacant (no letters received), the Borough Clerk will advertise for the vacancies.

Appointments to be filled by the Mayor with the consent of the assembly for the various seats.

Recommended Action if not approved with the consent of the Assembly:

*Motion: Move to appoint _____ to fill the vacancy on the
_____ for the term up until October 2023.*

CITY & BOROUGH OF WRANGELL, ALASKA BOROUGH ASSEMBLY AGENDA STATEMENT

<u>AGENDA ITEM TITLE:</u>	<u>DATE:</u>	February 14, 2023
	<u>Agenda Section</u>	11

ORDINANCE No. 1035 OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS IN CHAPTER 5.10, PURCHASES AND SALES, OF THE WRANGELL MUNICIPAL CODE

SUBMITTED BY:

Jeff Good, Borough Manager

FISCAL NOTE:

Expenditure Required: \$XXX Total

FY 21: \$	FY 22: \$	FY23: \$
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Amount Budgeted:

	FY22 \$XXX
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Account Number(s):

	XXXXX XXX XXXX
--	----------------

Account Name(s):

	Enter Text Here
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Unencumbered Balance(s) (prior to expenditure):

	\$XXX
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Reviews/Approvals/Recommendations

<input type="checkbox"/>	Commission, Board or Committee
Name(s)	
Name(s)	
<input checked="" type="checkbox"/>	Attorney
<input type="checkbox"/>	Insurance

ATTACHMENTS: 1. Ord 1035

MAYOR PROCEDURE: Declare the Public Hearing open. The Mayor shall ask if there is any administrative report on the Public Hearing Item. Persons who signed up to talk on this item shall be called to the podium.

Once all persons have been heard, declare the Public Hearing closed and entertain a motion.

RECOMMENDATION MOTION:
Move to Approve Ordinance No.1035.

SUMMARY STATEMENT:

The following Summary Statement has not changed since the January 24th meeting.

The purpose of this Ordinance is to increase the \$25,000 threshold to \$50,000 for the borough manager's spending authority and also increasing the threshold for competitive bidding or quotes from \$10,000 to \$20,000 for when assembly approval is and is not required.

CITY AND BOROUGH OF WRANGELL, ALASKA
ORDINANCE NO. 1035

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND
BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN
SECTIONS IN CHAPTER 5.10, PURCHASES AND SALES, OF
THE WRANGELL MUNICIPAL CODE

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF
WRANGELL, ALASKA:

[The changes to the existing code are shown as follows: the words that are underlined are to be added and the words that are bolded and in brackets are to be deleted.]

SEC. 1. Action. The purpose of this ordinance is to amend Section 5.10.030, When prior approval by the assembly is required; Section 5.10.040, When competitive bidding or quotations are required; and 5.10.050, When competitive bidding or quotations are not required, in the Wrangell Municipal Code.

SEC. 2. Amendment, Section 5.10.040 of the Wrangell Municipal Code is hereby amended as follows:

5.10.030 When prior approval by the assembly is required.

Every contract for, or purchase of, supplies, materials, equipment, contractual services, or public improvements for more than \$50,000 [**\$25,000**], excluding freight, shall require the prior approval by motion or resolution of the assembly; and under no circumstances may such contract or purchase be made without first obtaining the approval of the assembly.

5.10.040 When competitive bidding or quotations are required.

A. Purchases of, or contracts for, supplies, materials, equipment, contractual services, or public improvements whose cost does not exceed \$20,000 [**\$10,000**] in a single transaction may be made on the open market without competitive bidding or quotations; provided, that such purchases or contracts are for budgeted items or items previously approved by the assembly.

B. Except as otherwise provided in WMC 5.10.050, purchases of, or contracts for, supplies, materials, equipment, or contractual services whose cost exceeds \$20,000 [**\$10,000**] but does not exceed \$50,000 [**\$25,000**] in a single transaction shall, at the option of the borough purchasing authority, be made in the open market by written quotation or telephone solicitation or through the competitive bidding process set out in subsection (C) of this section.

C. Except as otherwise provided in WMC 5.10.050, before any purchase of, or contract for, supplies, materials, equipment, or contractual services is made whose cost exceeds \$50,000 [**\$25,000**], the borough purchasing authority shall submit to at least three persons, firms or corporations dealing in and able to supply the same, or to a smaller number if there are not three dealing in and able to supply

the same, invitations to bid and specifications to give them opportunity to bid. **[He shall also publish]** Public notice of the proposed purchase shall be posted in the newspaper of general circulation within the borough.

5.10.050 When competitive bidding or quotations are not required.

The following may be purchased or contracted for without giving an opportunity for competitive bidding or soliciting quotations:

A. Supplies, materials, equipment, or contractual services whose cost does not exceed \$20,000 **[\$10,000]**, excluding freight costs, in a single transaction;

...

F. Supplies, materials, equipment, or contractual services which must be purchased from a specific source in order to prevent incompatibility with previously purchased supplies, materials, equipment, or contractual services. For purposes of this subsection the term “incompatibility” is defined as the inability to (1) interconnect, combine, interchange, or join, or (2) that which causes or necessitates maintenance expertise or training where such acquisition would result in substantial duplication. The assembly must approve by motion or resolution any purchase whose cost exceeds \$50,000 **[\$25,000]** which is to be excluded from competitive bidding by the authority of this subsection;

...

K. Public improvement whose cost does not exceed \$20,000 **[\$10,000]** in a single transaction.

SEC. 3. Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4. Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING: January 24, 2023

PASSED IN SECOND READING: February 14, 2023

Patricia Gilbert, Borough Mayor

ATTEST: _____
Kim Lane, MMC, Borough Clerk

CITY & BOROUGH OF WRANGELL, ALASKA BOROUGH ASSEMBLY AGENDA STATEMENT

<u>AGENDA ITEM TITLE:</u>	<u>DATE:</u>	February 14, 2023
	<u>Agenda Section</u>	13

ORDINANCE No. 1036 OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS IN CHAPTER 18.04, BUILDING CODE; CHAPTER 20.68, CONDITIONAL USE PERMITS; CHAPTER 20.72, VARIANCES; AND CHAPTER 20.76, AMENDMENTS, AND ESTABLISHING A NEW PROCESS FOR RATES AND FEES IN THE WRANGELL MUNICIPAL CODE BY ADDING THE FEES TO THE ESTABLISHED FEE AND RATE SCHEDULE

SUBMITTED BY:

Kim Lane, Borough Clerk

FISCAL NOTE:

Expenditure Required: \$XXX Total

FY 21: \$	FY 22: \$	FY23: \$
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Amount Budgeted:

	FY22 \$XXX
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Account Number(s):

	XXXXX XXX XXXX
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Account Name(s):

	Enter Text Here
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Unencumbered Balance(s) (prior to expenditure):

	\$XXX
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Reviews/Approvals/Recommendations

<input type="checkbox"/>	Commission, Board or Committee
Name(s)	
Name(s)	
<input type="checkbox"/>	Attorney
<input type="checkbox"/>	Insurance

ATTACHMENTS: 1. ORD 1036

RECOMMENDATION MOTION:

Move to approve First Reading of Ordinance No. 1036 and move to a Second Reading with a Public Hearing to be held on February 28, 2023.

SUMMARY STATEMENT:

This ordinance will remove the fees for Permits, After-the-Fact Applications, Applications, and Initiations and place them into the collective Fee and Rate Schedule for the Borough.

Fees and Rates are to be reviewed annually by the Assembly with a Public Hearing occurring before assembly consideration. After the Public Hearing, the assembly may approve the schedule by Resolution, with a Public Hearing for the Resolution also held beforehand.

As stated above, if the Assembly approves this Ordinance in its first reading, there will be a Public Hearing for the Resolution that will approve the Rate and Fee Schedule, following the Public Hearing and approval of the Ordinance.

Please note that this Ordinance does not amend the building code procedures, it just removes the fees from the code so that they can be added to the approved Fee and Rate Schedule.

CITY AND BOROUGH OF WRANGELL, ALASKA
ORDINANCE NO. 1036

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS IN CHAPTER 18.04, BUILDING CODE; CHAPTER 20.68, CONDITIONAL USE PERMITS; CHAPTER 20.72, VARIANCES; AND CHAPTER 20.76, AMENDMENTS, AND ESTABLISHING A NEW PROCESS FOR RATES AND FEES IN THE WRANGELL MUNICIPAL CODE BY ADDING THE FEES TO THE ESTABLISHED FEE AND RATE SCHEDULE

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

[The changes to the existing code are shown as follows: the words that are underlined are to be added and the words that are bolded and in brackets are to be deleted.]

SEC. 1. Action. The purpose of this ordinance is to amend Sections 18.04.080 Permit Fees, 20.68.035 Fees – After-the-fact application, 20.72.020 Application, and 20.76.020, Initiation, to establish a new process for rates and fees, of the Wrangell Municipal Code by adding such fees to the established Fee and Rate Schedule.

SEC. 2. Amendment. Section 18.04.080 - Section 107.2 amended – Permit Fees is hereby amended as follows:

18.04.080 Section 107.2 amended – Permit fees.

Section 107.2 of the Uniform Building Code is amended to read as follows:

A. No building permit fees shall be charged for improvements or construction of less than two thousand dollars valuation.

B. All building permit fees for permits for construction of valuation of two thousand dollars or more shall be listed on the approved Fee and Rate Schedule.[as follows:

- 1. All residential construction, one hundred dollars;**
- 2. Commercial construction, one hundred-fifty dollars;**
- 3. Remodeling and miscellaneous construction, fifty dollars.]**

The assembly shall, by resolution, establish fees and rates for the building permit fees. A Public Hearing shall be required on the resolution that establishes such fees and rates.

SEC. 3. Amendment. Section 20.68.035 Fees – After-the-fact applications is hereby amended as follows:

20.68.035 Fees – After-the-fact applications.

A. All conditional use permit applications must be accompanied by the [a \$50.00] application fee listed on the approved Fee and Rate Schedule, unless a higher after-the-fact application fee is required.

B. After-the-fact conditional use permit applications must be accompanied by the [a \$150.00] application fee listed on the approved Fee and Rate Schedule, unless:

...

The assembly shall, by resolution, establish fees and rates for the building permit fees. A Public Hearing shall be required on the resolution that establishes such fees and rates.

SEC. 4. Amendment. Section 20.72.020 Application for Variances – is hereby amended as follows:

20.72.020 Application.

A. A written application shall be filed with the commission through the zoning administrator.

B. The application shall include the following:

...

4. The fees for an after-the-fact application and after-the-fact variance applications shall be listed on the approved Fee and Rate Schedule. [A fee of \$50.00 unless a higher after-the-fact application fee is required;

5. The fee for after-the-fact variance applications is \$150.00 unless:]

...

The assembly shall, by resolution, establish fees and rates for the building permit fees. A Public Hearing shall be required on the resolution that establishes such fees and rates.

SEC. 5. Amendment. Section 20.76.020 Initiation for rezone petition – is hereby amended as follows:

20.76.020 Initiation.

...

4. [A fee of \$75.00] The fee to cover legal notices and administrative costs shall be listed on the approved Fee and Rate Schedule.

The assembly shall, by resolution, establish fees and rates for the building permit fees. A Public Hearing shall be required on the resolution that establishes such fees and rates.

SEC. 6. Severability. If any provision of this ordinance, or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to all other persons or circumstances shall not be affected thereby.

SEC. 7. Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 8. Effective Date. This ordinance shall be effective upon adoption. However, until which time that a new fee schedule is duly adopted, the fees reflected in the former sections amended herein shall remain as an interim fee schedule.

PASSED IN FIRST READING: _____, 2023

PASSED IN SECOND READING: _____, 2023

Patricia Gilbert, Borough Mayor

ATTEST: _____
Kim Lane, MMC, Borough Clerk

18.04.080 Section 107.2 amended – Permit fees.

Section 107.2 of the Uniform Building Code is amended to read as follows:

A. No building permit fees shall be charged for improvements or construction of less than two thousand dollars valuation.

B. All building permit fees for permits for construction of valuation of two thousand dollars or more shall be as follows:

1. All residential construction, one hundred dollars;
2. Commercial construction, one hundred-fifty dollars;
3. Remodeling and miscellaneous construction, fifty dollars.

[Ord. 920 § 2, 2016; Ord. 691 § 4, 2000. Formerly § 18.04.107.2.]

20.68.035 Fees – After-the-fact applications.

A. All conditional use permit applications must be accompanied by a \$50.00 application fee unless a higher after-the-fact application fee is required.

B. After-the-fact conditional use permit applications must be accompanied by a \$150.00 application fee unless:

1. The applicant did not own the property prior to:
 - a. November 1, 2006, in the case of a lot located within the boundaries of the former City of Wrangell, as those boundaries existed immediately prior to borough formation; or
 - b. May 30, 2008, in the case of a lot located outside the boundaries of the former City of Wrangell, as those boundaries existed immediately prior to borough formation;
2. The violation existed prior to the applicant owning the property;
3. The violation was not disclosed to the applicant at the time the applicant acquired ownership; and
4. An application is submitted within 60 days of the applicant receiving notice or otherwise becoming aware of the violation.

C. “After-the-fact” means an application for a conditional use permit which is received by the borough after the use for which the permit is required has commenced. [Ord. 867 § 1, 2013; Ord. 833 § 53, 2009; Ord. 788 § 1, 2006.]

20.72.020 Application.

A. A written application shall be filed with the commission through the zoning administrator.

B. The application shall include the following:

1. A description by lot and block of the property involved;
2. The signature of the owner of the property concerned;
3. Site plans showing the location of all existing and proposed buildings or alterations, elevations of such buildings or alterations, and such other data as may be required;
4. A fee of \$50.00 unless a higher after-the-fact application fee is required;
5. The fee for after-the-fact variance applications is \$150.00 unless:

- a. The applicant did not own the property prior to:
 - i. November 1, 2006, in the case of a lot located within the boundaries of the former City of Wrangell, as those boundaries existed immediately prior to borough formation; or
 - ii. May 30, 2008, in the case of a lot located outside the boundaries of the former City of Wrangell, as those boundaries existed immediately prior to borough formation;
- b. The violation existed prior to the applicant owning the property;
- c. The violation was not disclosed to the applicant at the time the applicant acquired ownership; and
- d. An application is submitted within 60 days of the applicant receiving notice or otherwise becoming aware of the violation.

C. "After-the-fact" means an application for a variance which is received by the borough after the construction, alteration or use for which the variance is required has commenced. [Ord. 867 § 1, 2013; Ord. 833 § 54, 2009; Ord. 788 § 3, 4, 2006; Ord. 485 § 5, 1985; prior code § 95.65.030(2)(a).]

20.76.020 Initiation.

Changes in this title may be initiated by the following means:

- A. By the borough assembly on its own motion;
- B. By the commission on its own motion;
- C. By petition signed by the owners of 50 percent of the property within an area proposed for rezoning; the petition shall be filed with the commission through the zoning administrator. The zoning administrator shall not accept incomplete or incorrect petitions for filing. If the borough assembly finds that it is in the public's best interest to disapprove a petition, another petition requesting substantially the same zoning change may not be filed within six months after disapproval of the original petition. Besides the necessary signatures, the petition shall contain the following:
 - 1. A description by lot and block and general location of the property involved;
 - 2. Reasons for the proposed change;
 - 3. A statement describing the effect of the proposed change on the objectives of the comprehensive plan; and
 - 4. A fee of \$75.00 to cover legal notice and administrative costs. [Ord. 867 § 1, 2013; Ord. 485 § 6, 1985; prior code § 95.75.020(1).]

CITY & BOROUGH OF WRANGELL, ALASKA BOROUGH ASSEMBLY AGENDA STATEMENT

<u>AGENDA ITEM TITLE:</u>	<u>DATE:</u>	February 14, 2023
	<u>Agenda Section</u>	13

Approval of Consent to Assignment of Leased Tidelands from Patty Kautz to Rolland Wimberley, dba Wolf's Den Rentals LLC

SUBMITTED BY:

Kim Lane, Borough Clerk

FISCAL NOTE:

Expenditure Required: \$XXX Total

FY 21: \$	FY 22: \$	FY23: \$
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Amount Budgeted:

	FY22 \$XXX
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Account Number(s):

	XXXXX XXX XXXX
--	----------------

Account Name(s):

	Enter Text Here
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Unencumbered Balance(s) (prior to expenditure):

	\$XXX
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Reviews/Approvals/Recommendations

<input type="checkbox"/>	Commission, Board or Committee
Name(s)	
Name(s)	
<input checked="" type="checkbox"/>	Attorney
<input type="checkbox"/>	Insurance

ATTACHMENTS: 1. Assignment Document 2. Existing Lease

RECOMMENDATION MOTION:

Move to Approve Consent to Assignment of Leased Tidelands from Patty Kautz to Rolland Wimberley, dba Wolf's Den Rentals LLC.

SUMMARY STATEMENT:

The purpose of this item is to assign the existing Tidelands lease from Patty Kautz, dba Hungry Beaver to Rolland Wimberley, dba Wolf's Den Rentals LLC. Both Ms. Kautz and Mr. Wimberley

have signed the Assignment of Lease, as required before the Assembly can approve the Consent to Assign the Lease.

Mr. Wimberley will be required to sign a memorandum of lease after this document has been approved and executed. That document will be recorded with the State Records office.

There are no past due amounts on this lease. The expiration of the lease will not change and is due to expire on September 1, 2041.

Return to: City & Borough of Wrangell
P.O. Box 531
Wrangell, AK 99929

Wrangell Recording District

Page 1 of 6

ASSIGNMENT OF LEASE

PARTIES: Patty Kautz ("Assignor")
Wolf's Den Rentals LLC ("Assignee")

DATE: _____

RECITALS:

A. Assignor is the "Lessee" under the Tidelands Lease (the "Lease") between the City and Borough of Wrangell, Alaska, ("Lessor") and Patty J. Cummings (currently known as Patty Kautz), P.O. Box 1677, Wrangell, Alaska dated September 30, 1986, and recorded October 2, 1986, in Book 15, Pages 103-106, Wrangell Recording District.

The "Leased Premises," which are the subject of the Lease, consist of:

A portion of the unsubdivided tidelands owned by the City and Borough of Wrangell, located adjacent to Lot 14 & Lot 15, Block 7A of the Wrangell Tidelands Addition in the inner harbor. This parcel is more particularly described as follows:

Beginning at the Southeast Corner of Lot 15, Block 7A, Wrangell Tidelands Addition, Wrangell, Alaska; thence 12.00', S 81°-00'E, to a point; thence 60.00', N 09°-00'E, to a point; thence 12.00', N 81°-00'E, to a point on the Easterly Line

of Lot 14, Block and addition as above; thence 19.32', S 09°-00'W, along said Easterly line to the Easterly corner common to Lots 14 and 15, Block and Addition as above; thence 40.68', S 09°-00'W along the Easterly line of Lot 15 to the point of beginning. Points described above enclose an area of 720 square feet of City and Borough of Wrangell Tideland Property

C. Assignee, having reviewed and become familiar with all of the terms and conditions of the Lease, now wishes to acquire Assignor's interest in the Leased Premises and is willing to assume all of the obligations of the Lessee under the Lease; and Assignor, having obtained the consent of the Lessor to do so, now wishes to transfer all of Assignor's interest under the Lease and in and to the Leased Premises.

NOW, THEREFORE:

1. **ASSIGNMENT**

1.1 Assignor hereby assigns, transfers, and conveys to Assignee all of the Assignor's interest as Lessee in and to the Lease and in and to the Leased Premises.

1.2 Assignor warrants that the Lease is in good standing according to its terms, that the Lease has not been amended or modified, and that Assignor has paid all rent due thereunder through and including the payment due by November 30.

1.3 Assignor warrants that Assignee shall have possession of the Leased Premises on the __ day of _____, 2022.

1.4 The consideration for this Assignment consists of Assignee's assumption of all liability for payment and performance of the Lease.

2. **ASSUMPTION**

2.1 Assignee hereby accepts the foregoing assignment by Assignor, assumes responsibility for payment and performance of all obligations of Assignor, as Lessee, under the

Lease, including paying of all rentals required by the Lease, commencing with the annual rental payment due by November 30 of each year.

2.2 Assignee agrees to hold harmless, indemnify, and defend Assignor from and against any loss, claim, or liability suffered by or asserted against Assignor as a result of Assignee's failure to fully pay and perform the Lease at any time hereafter.

2.3 Assignee has inspected the Leased Premises and accepts the same in "AS IS" condition.

2.4 This Assignment is conditioned upon execution by Lessor of the Consent to Assign Lease included herein.

ASSIGNOR


By: Patty Kautz

PO Box 2313

Wrangell, AK 99929

ASSIGNEE



By: Rolland Wimberley, dba Wolf's Den Rentals LLC

PO Box 806

Wrangell, AK 99929

CONSENT TO ASSIGN LEASE

PURSUANT TO Wrangell Municipal Code § 16.08.140, the City and Borough of Wrangell, Alaska, of P.O. Box 531, Wrangell, Alaska 99929, hereby consents to the assignment of that certain Tidelands Lease (the "Lease") originally between the City and Borough of Wrangell, Alaska, ("Lessor") and Patty J. Cummings (currently known as Patty Kautz), P.O. Box 1677, Wrangell, Alaska dated September 30, 1986 , and recorded October 2, 1986 in Book 15, Pages 103-106, Wrangell Recording, which Lease was first assigned to Kenneth G. Trammel, of P.O. Box 2214, Wrangell, Alaska 99929 on May 20, 2008 and recorded on June 4, 2008 in the Wrangell Recording District, Document No. 2008-000177-0, Wrangell Recording District, which Lease was then assigned to Patty J. Kautz, of PO Box 2313, Wrangell, Alaska, 99929 on June 28, 2013 and recorded on August 23, 2013 in the Wrangell Recording District, Document No. 2013-000229-0, Wrangell Recording District, First Judicial District, State of Alaska, and more particularly described as follows, to-wit:

A portion of the unsubdivided tidelands owned by the City and Borough of Wrangell, located adjacent to Lot 14 & Lot 15, Block 7A of the Wrangell Tidelands Addition in the inner harbor. This parcel is more particularly described as follows:

Beginning at the Southeast Corner of Lot 15, Block 7A, Wrangell Tidelands Addition, Wrangell, Alaska; thence 12.00', S 81°-00'E, to a point; thence 60.00', N 09°-00'E, to a point; thence 12.00', N 81°-00'E', to a point on the Easterly Line of Lot 14, Block and addition as above; thence 19.32', S 09°-00'W, along said Easterly line to the Easterly corner common to Lots 14 and 15, Block and Addition as above; thence 40.68', S 09°-00'W along the Easterly line of Lot 15 to the point of beginning. Points described above enclose an area of 720 square feet of City and Borough of Wrangell Tideland Property

CONSENT. Lessor, in accordance with Wrangell Municipal Code § 16.08.140 and in consideration of Assignee Rolland Wimberly, DBA Wolf's Den Rentals LLC's agreement to pay and perform the

Lease, hereby consents to this Assignment. Assignee Rolland Wimberly, DBA Wolf's Den Rentals LLC is subject to all provisions of said Lease. This consent does not release Assignor Patty Kautz or any prior lessees or assignees from liability for payment and performance of the Lease.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by the duly authorized representative(s) signing below.

Date: _____, 2023

City and Borough of Wrangell, Alaska
Lessor

By: Patricia Gilbert, Borough Mayor

By: Jeff Good, Borough Manager

Patricia Gilbert
Borough Mayor

Jeff Good
Borough Manager

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by **Patricia Gilbert & Jeff Good**, Borough Mayor & Borough Manager, respectively, of the City and Borough of Wrangell, Alaska, an Alaska home rule municipal corporation, on behalf of the corporation.

Notary Public for Alaska
Commission expires: _____

Rolland Wimberley, DBA Wolf's Den Rentals LLC, Lessee

By: _____

Name: _____

Title: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by

_____.

Notary Public for _____

Commission expires: _____



**ASSIGNMENT OF TIDELANDS LEASE – PARCEL 3
IN LIEU OF FORECLOSURE**

This *Assignment of Tidelands Lease – Parcel 3 in Lieu of Foreclosure* (“Agreement”) is made and entered into this 28th day of June, 2013, by and between BEAVER CONNECTIONS, INC., an Alaska corporation, with an address of P.O. Box 2214, Wrangell, Alaska 99929 and KENNETH G. TRAMMEL, an individual whose address is P.O. Box 2214, Wrangell, Alaska 99929 (collectively referred to as “Assignor”), and HUNGRY BEAVER, INC., a Washington corporation whose address is 15 W. Slavin Road, Yakima, Washington 98903 and PATTY J. KAUTZ, an individual with an address of P.O. Box 2313, Wrangell, Alaska 99929 (collectively referenced herein as “Assignee”);

WHEREAS, Assignor owns and operates business entities known as *Marine Bar*, *Marine Liquor Store*, *Hungry Beaver Hotel* and *Hungry Beaver Pizza*, all located at 640 Shakes Street, Wrangell, Alaska 99929 (“Business”);

WHEREAS, Assignor owns all of the real and personal property, rights, title, interest and estates, including all fixtures, furnishings, equipment and other collateral contained upon the real property, which is more particularly described as follows:

A portion of the unsubdivided tidelands owned by the City of Wrangell, located adjacent to Lot 14 & Lot 15, Block 7A of the Wrangell Tidelands Addition in the inner harbor. This parcel is more particularly described as follows:

Beginning at the Southeast Corner of Lot 15, Block 7A Wrangell Tidelands Addition, Wrangell, Alaska; thence 12.00', S 81°-00'E, to a point; thence 60.00', N09°-00'E, to a point; thence 12.00', N 81°-00E', to a point on the

Easterly Line of Lot 14, Block and addition as above; thence 19.32', S 09°-00'W, along said Easterly line to the Easterly corner common to Lots 14 and 15, Block and Addition as above; thence 40.68', S 09°-00'W along the Easterly line of Lot 15 to the point of beginning. Points described above enclose an area of 720 square feet of City of Wrangell Tideland Property;

WHEREAS, Assignor is in default under its obligations to Assignee created by a *Second Deed of Trust* dated May 20, 2008 and recorded on June 4, 2008, under Document No. 2008-000177-0, Wrangell Recording District, First Judicial District, State of Alaska that grants equitable title interest in the real property described in **Exhibit A** herein and incorporated into this Agreement. Said deed being offered as security for a Promissory Note in the amount of \$440,000;

WHEREAS, by virtue of the default by Assignor, Assignee has the right to foreclose and exercise the rights and remedies available under the *Second Deed of Trust*;

WHEREAS, Assignor hereby assigns to Assignee, with right of reassignment, all of Assignor's rights, title to, and interest in and to the leasehold estate identified herein and created by that *Assignment of Lease – Parcel 3*, dated May 20, 2008 and recorded on June 4, 2008 under Document No. 2008-000170-0, recorded in the Wrangell Recording District, First Judicial District, State of Alaska;

WHEREAS, the interest given in Parcel 3 by the assignment relates to that *Lease Agreement* dated the 30th day of September 1986, between CITY OF WRANGELL, as Lessor and PATTY J. KAUTZ (f/k/a Patty J. Warwick, f/k/a Patty J. Cummings, f/k/a Patty J. Tomal), as Lessor and recorded on the 2nd day of October, 1986, in the Wrangell Recording District, First Judicial District, State of Alaska in Book 15, at Pages 103-106;

WHEREAS, the CITY OF WRANGELL, as Lessor, granted its consent to the assignment under a *Consent to Assignment of Lease – Parcel 3*, dated May 2, 2008 and recorded on June 4, 2008 under Document No. 2008-000171-0, in the Wrangell Recording District, First Judicial District, State of Alaska;

ASSIGNMENT OF TIDELANDS LEASE – PARCEL 3
IN LIEU OF FORECLOSURE

Page 2 of 7



WHEREAS, Assignor desires to assign to Assignee and Assignee desires to assume, all of Assignor's rights and obligations granted under the *Lease Agreement*, with the consent of the CITY OF WRANGELL, contained herein;

THEREFORE, in consideration of the mutual covenants, representations, warrants, consents and agreements contained herein and other valuable consideration received, and with the intent to be legally bound by this Agreement, the parties herein agree as follows:

1. Assignor hereby assigns to Assignee all of Assignor's right, title and interest thereunder to Assignee. Assignee hereby accepts such assignment. Assignee shall have all of the rights of Assignor under the *Lease Agreement*, including, without limitation, any option to renew or extend the *Lease*.
2. Assignee hereby assumes and agrees to be bound by all of Assignor's obligations under the *Lease*. Assignee shall perform all the terms, covenants and conditions of the *Lease*, including the payment of rent and any other required amounts to Lessor, after the date hereof.
3. Assignee shall indemnify and hold Assignor harmless from any and all claims, damages, expenses and liabilities of whatever nature, including attorney's fees, arising under the *Lease* or relating to the Premises after the date hereof.
4. Assignor hereby warrants that no other assignments, encumbrances, or transfer of its rights under the *Lease*; that the *Lease* is in full force and effect; and that the *Lease* is free of any and all other claims, liens and encumbrances.
5. Except as specifically modified herein, the *Lease* will continue in full force and effect.



6. No provision set forth in this *Agreement*, express or implied, is intended to constitute an act of merger.

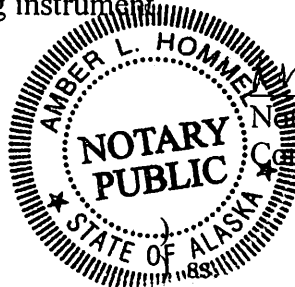
Dated in Wrangell, Alaska this 27 day of June, 2013.

BEAVER CONNECTIONS, INC.
an Alaska corporation

By: [Signature]
Kenneth G. Trammel
Its: Secretary
[Signature]
Kenneth G. Trammel

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

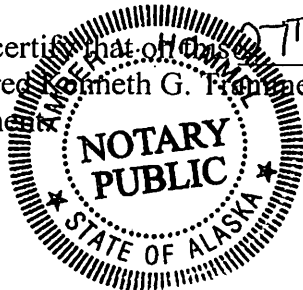
This is to certify that on this 27TH day of June, 2013, before me, personally appeared Kenneth G. Trammel, known to me and known to me to be the Secretary of Beaver Connections, Inc., the corporation that executed the foregoing instrument.



[Signature]
Notary Public in and for the State of Alaska
Commission expires: Oct. 14, 2016

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

This is to certify that on this 27TH day of June, 2013, before me, personally appeared Kenneth G. Trammel, known to me to be the individual named in the foregoing instrument.



[Signature]
Notary Public in and for the State of Alaska
Commission expires: Oct. 14, 2016

ASSIGNMENT OF TIDELANDS LEASE – PARCEL 3
IN LIEU OF FORECLOSURE

Page 4 of 7



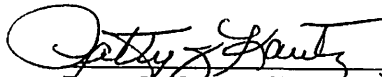
ACCEPTANCE OF ASSIGNMENT OF TIDELANDS LEASE – PARCEL 3

Assignee hereby accepts the foregoing Assignment of the above-described *Lease* dated September 30, 1986, and subjects itself to all the promises and covenants therein contained. The Assignment is contingent upon the making of timely payments on the *Lease* and complying with all the terms and provisions of the *Lease*. Assignee promises to pay and be fully liable to Lessor for the rent payments of said *Lease* due from the Closing Date to the *Lease* ending date defined as September 1, 2041, to be paid in the manner and at the times therein specified in said *Lease*.

Assignee agrees to indemnify and hold Assignor harmless for all liability of any nature whatsoever arising from the *Lease*. Assignee understands, acknowledges, and accepts the conditions that the *Lease* expires on September 1, 2041, with no right of renewal. The length of the term of the *Lease* and the inability to renew the *Lease* will affect the sale of the Property. Assignee releases the Assignor for all liability resulting from the inability to renew the *Lease* and accepts the premises as is, where is, without any warranty of any kind.

IN WITNESS WHEREOF, the undersigned has caused this Acceptance of Assignment of *Lease* to be executed this 27 day of June, 2013.

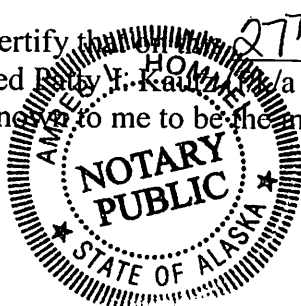
ASSIGNEE:

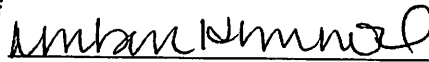


Patty J. Kautz (f/k/a Patty J. Warwick,
f/k/a Patty J. Cummings, f/k/a Patty J. Tomal)
P.O. Box 2313
Wrangell, Alaska 99929

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

This is to certify that on this 27th day of June, 2013, before me, personally appeared Patty J. Kautz (f/k/a Patty J. Warwick, f/k/a Patty J. Cummings, f/k/a Patty J. Tomal), known to me to be the individual named in the foregoing instrument.




Notary Public in and for the State of Alaska
Commission expires: Oct. 14, 2016

ASSIGNMENT OF TIDELANDS LEASE – PARCEL 3
IN LIEU OF FORECLOSURE

Page 5 of 7



CONSENT OF LESSOR TO ASSIGNMENT OF TIDELANDS LEASE
- PARCEL 4 AND DEED IN LIEU OF FORECLOSURE

The CITY OF WRANGELL, as Lessor, hereby consents to the *ASSIGNMENT OF TIDELANDS LEASE - PARCEL 3 IN LIEU OF FORECLOSURE* that assigns all right, title and interest secured under that certain Lease dated September 30, 1986, and recorded on October 2, 1986, in the Wrangell Recording District, First Judicial District, State of Alaska, recorded in Book 15 at Pages 103-106, from BEAVER CONNECTIONS, INC., an Alaska corporation, whose address is P.O. Box 2214, Wrangell, Alaska 99929 to PATTY J. KAUTZ (f/k/a Patty J. Warwick, f/k/a Patty J. Cummings, f/k/a Patty J. Tomal), P.O. Box 2313, Wrangell, Alaska 99929. The leased real property is situated in the Wrangell Recording District, First Judicial District, State of Alaska, and more particularly described as follows, to-wit:

A portion of the unsubdivided tidelands owned by the City of Wrangell, located adjacent to Lot 14 & Lot 15, Block 7A of the Wrangell Tidelands Addition in the inner harbor. This parcel is more particularly described as follows:

Beginning at the Southeast Corner of Lot 15, Block 7A Wrangell Tidelands Addition, Wrangell, Alaska; thence 12.00', S 81°-00'E, to a point; thence 60.00', N09°-00'E, to a point; thence 12.00', N 81°-00E', to a point on the Easterly Line of Lot 14, Block and addition as above; thence 19.32', S 09°-00'W, along said Easterly line to the Easterly corner common to Lots 14 and 15, Block and Addition as above; thence 40.68', S 09°-00'W along the Easterly line of Lot 15 to the point of beginning. Points described above enclose an area of 720 square feet of City of Wrangell Tideland Property.



Patty J. Kautz (f/k/a Patty J. Warwick, f/k/a Patty J. Cummings, f/k/a Patty J. Tomal) is subject to all the provisions of said *Lease*.

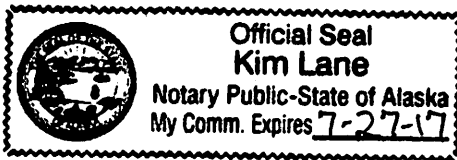
Dated at Wrangell, Alaska, this 7th day of August, 2013.

CITY OF WRANGELL, ALASKA
LESSOR

By: Timothy S. Rooney
Its: Borough Manager, City of Wrangell

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

This is to certify that on this 7th day of August, 2013, before me, personally appeared Timothy S. Rooney, known to me and known to me to be the Borough Manager of the City of Wrangell, Alaska.



Kim Lane
Notary Public in and for the State of Alaska
Commission expires: 7-27-17

RECORD IN THE WRANGELL RECORDING DISTRICT

After Recording, Return Original to:

Bankston Gronning O'Hara, P.C.
601 W. 5th Avenue, Suite 900
Anchorage, Alaska 99501
ATTN: Y. Gearing

ASSIGNMENT OF TIDELANDS LEASE – PARCEL 3
IN LIEU OF FORECLOSURE

Page 7 of 7



TIDELANDS LEASE

This indenture made this 30th day of September, 1986, between the CITY OF WRANGELL, ALASKA, as Lessor, and PATTY J. CUMMINGS, P.O.BOX 1677, Wrangell, Alaska, as Lessee:

RECITALS

The Lessee's predecessor in interest built certain improvements on upland property. The Lessee, after acquisition, discovered the improvements encroached on City tidelands when Lessee attempted to obtain financing. The encroachments exist on City tidelands, as well as the adjacent property owner, Wrangell Fisheries, the owner of Lot 14, Block 7-A, Wrangell Tideland Addition.

The Council at its meeting on July 8, 1986, authorized the City Clerk to issue a lease for tidelands to Lessee, pursuant to WMC 16.08.120 (A).

Lessee is also obtaining written consent from Wrangell Fisheries to resolve the encroachment of Lessee's property on said Lot 14.

The City desires to lease a portion of tidelands, such that the building will no longer encroach on tidelands, and Lessee may obtain her financing and continue with her improvement project.

NOW THEREFORE, the City of Wrangell, as Lessor, and Patty J. Cummings, P. O. BOX 1677, Wrangell, Alaska, as Lessee, on this 30th day of September, 1986, enter into this lease as follows:

WITNESSETH:

LESSOR hereby leases and demises unto LESSEE, and LESSEE does hereby lease and take from LESSOR, for and in consideration of the rents, terms, limitations, covenants and mutual agreements hereinafter stated, the following described tide and submerged lands, situated in the City of Wrangell, First Judicial District, State of Alaska, to-wit:

A portion of the unsubdivided tidelands owned by the City of Wrangell, located adjacent to Lot 14 & Lot 15, Block 7A of the Wrangell Tidelands Addition in the inner harbor. This parcel is more particularly described as follows:

Beginning at the Southeast Corner of Lot 15, Block 7A Wrangell Tidelands Addition, Wrangell, Alaska; Thence 12.00', S 81°-00'E, to a point; thence 60.00', N 09°-00'E, to a point; thence 12.00', N 81°-00'E, to a point on the Easterly Line of Lot 14, Block and addition as above; thence 19.32', S 09°-00'W, along said Easterly line to the Easterly corner common to Lots 14 and 15, Block and Addition as above; thence 40.68', S 09°-00'W along the Easterly line of Lot 15 to the point of beginning. Points described above enclose an area of 720 square feet of City of Wrangell Tideland Property.

That each of the parties hereto has performed or caused to be performed all of the acts and things required by the substantive and procedural requirements of Wrangell Municipal Code, Title 16, Chapter 08.

That the term hereof is for fifty-five (55) years from date hereof, ending and terminating on September 1, 2041 unless renewed or sooner terminated under the provisions of said Code.

That the annual rental is \$42.00, payable annually in advance, subject to adjustment pursuant to the provisions of Wrangell Municipal Code, Sec. 16.08.220, as may be from time to time amended.

That LESSEE'S improvements already exist on the portion of the tidelands property leased. The purpose of this Lease is to lease to LESSEE a portion of public tidelands, such that her buildings will no longer encroach on public tidelands. Consent from the adjoining property owner to resolve the conflict

of encroachment of improvements on Lot 14, Block 7A has also been obtained by LESSEE.

That LESSOR has imposed no other conditions or limitations on LESSEE, other than those contained in Wrangell Municipal Code, Title 16, Chapter 08, and by the Army Corps of Engineers, and in consideration thereof LESSEE hereby agrees to perform such other acts and deeds required by said Municipal Code in operation of the land and LESSEE hereby states that it is aware of such requirements; that it has read or caused the provisions thereof to be read and understood, and which terms and provisions are hereby adopted by reference as if fully set forth in writing herein.

LESSEE does further agree that at the expiration of said term, or renewal term, to quit and surrender the said premises with improvements thereon according to the terms and provisions of the present Wrangell Municipal Code.

DATED this 30th day of September, 1986, at Wrangell, Alaska.

LESSEE:

Dorothy J. Cummings

LESSOR:

CITY OF WRANGELL, ALASKA

BY: [Signature]

Mayor

ATTEST: [Signature]

City Clerk

STATE OF ALASKA)
) ss
 FIRST JUDICIAL DISTRICT)

On this day personally appeared before me PATTY J. CUMMINGS
 to me known as the individual described in and who executed the
 within and foregoing instrument, and acknowledged that she signed
 the same as her free and voluntary act and deed, for the uses and
 purposes therein mentioned.

GIVEN UNDER my hand and official seal this 30 day of
September, 1986.

Lanore K. Gunderson
 Notary Public, State of Alaska
 My Commission expires: 7-6-89

STATE OF ALASKA)
) ss
 FIRST JUDICIAL DISTRICT)

On this day personally appeared before me William B. Privett,
 Mayor City of Wrangell and Lanore K. Gunderson, City Clerk of
 Wrangell, Alaska, both known to me as the individuals described in
 and who executed the within and foregoing instrument, and
 acknowledged that they signed the same as their free and voluntary
 act and deed, for the uses and purposes herein mentioned.

Given under my hand and official seal this 30 day of
September, 1986.

Christie L. Jamison
 Notary Public, State of Alaska
 My Commission expires: 7-2-90

Return Document to:
 City Clerk
 City of Wrangell
 PO Box 531
 Wrangell, Alaska 99929

Address <u>City of Wrangell</u>	Requested by _____	TIME <u>12:50 PM</u>	DATE <u>10-2-86</u>	RECORDED - #	86-449
				WRANGELL 14	
				RE	

Wrangell Recording District

**CITY & BOROUGH OF WRANGELL, ALASKA
BOROUGH ASSEMBLY AGENDA STATEMENT**

<u>AGENDA ITEM TITLE:</u>	<u>DATE:</u>	February 14, 2023
	<u>Agenda Section</u>	13

Approval to move the Art Gallery into the Nolan Center's Small Theater

SUBMITTED BY:

Cyni Crary, Nolan Center Director

FISCAL NOTE:

Expenditure Required: \$XXX Total

FY 21: \$	FY 22: \$	FY23: \$
-----------	-----------	----------

Amount Budgeted:

	FY22 \$XXX
--	------------

Account Number(s):

	XXXXXX XXX XXXX
--	-----------------

Account Name(s):

	Enter Text Here
--	-----------------

Unencumbered Balance(s) (prior to expenditure):

	\$XXX
--	-------

Reviews/Approvals/Recommendations

<input type="checkbox"/>	Commission, Board or Committee
Name(s)	
Name(s)	
<input type="checkbox"/>	Attorney
<input type="checkbox"/>	Insurance

ATTACHMENTS: 1. Art Gallery proposal from Michael Bania.

RECOMMENDATION MOTION:

Move to approve moving the Art Gallery into the Nolan Center's Small Theater.

SUMMARY STATEMENT:

The Nolan Center was approached by Michael Bania with a proposal to move the Art Gallery that is currently located downtown, to the Nolan Center's small theater room. As stated in the proposal by Ms. Bania, the current art gallery has been in a space that has been donated for the cause for the

past eight years. The current owners of the building have informed the Art Gallery members that the fees for heating and electricity will be higher than what the Art Gallery members could afford.

Ms. Bania reached out to the Nolan Center Director to see if this transition would be possible.

Ms. Bania came and spoke to the Assembly at the meeting on January 24th about this proposal and the Assembly asked that there be an agenda item for the assembly to consider.

The Art Gallery members are offering to contribute \$1000 to upgrade the theater room to accommodate artwork.

The Nolan Center would receive an annual stipend and commission on all items sold. The complete Proposal is attached.

PROPOSAL

Art Gallery at the Nolan Center

For more than eight years the downtown Art Gallery has been located in a space generously donated by the building's previous owner, Diane Lightner. Each member of the Gallery pays a small monthly fee to help defray the costs of heating and electricity.

The Gallery space functions as a weekly meeting place for the members throughout the year. The gallery opens for tour ships during the summer season and the majority of sales benefit the individual members during this time. Items for sale include original paintings, notecards featuring member's artwork, prints, local author and illustrator's children's books, very popular knitted apparel, beaded works, Alaska-themed hand-crafted wall hangings and quilts, whimsical painted garden rocks, and other eye-catching handmade or sewn items such as hand bags, and much more. The space is charming, inviting and many tourists comment how they appreciate the less commercial atmosphere and enjoy purchasing locally made products.

In recent months, the ownership of the building has transferred to Shawna Brown who in a recent meeting with the members, informed us that the cost of heating and electricity would be considerably higher than the small membership could afford.

Coincidentally, The Friends of the Museum are always looking for ways to improve the overall function of the Nolan Center Museum. In a recent meeting with Cyni Crary, the idea was entertained that it might be possible to create an in house art gallery featuring high quality, locally produced pieces with the purpose of selling to tourists and local residents of the community. The little theater room next to the office would be an excellent space as it is located in close proximity to the museum gift shop and has consistent foot traffic. The space is large enough to accommodate a more intimate and well designed viewing experience. The intent would be to only display high quality, unique pieces featuring not only the current art gallery member's creations, but to invite other artists in the community to submit their work as well. The small monthly fee from each contributing member would be donated to the Nolan Center.

With the upcoming plan to modernize and expand the museum's audio and visual capabilities, it could be an excellent time to evaluate the optimum use of the museum in terms of tourist and guests' experience while encouraging more local participation.

The Art Gallery members recently met and it was agreed that we would like to explore the possibility of partnering with the Nolan Center to see if this idea has legs. While we already have some display capabilities, the Gallery members would be willing to contribute \$1000 to upgrade the theater room to accommodate the display of artwork. Additionally the gallery members would be willing to donate to the museum the normal commissions we charge on the items sold. During the tourist season, the members would partner with the museum staff to be in attendance when tourists are visiting the museum.

Respectively submitted,

Michael Bania
Art Gallery member
January 17, 2023

CITY & BOROUGH OF WRANGELL, ALASKA BOROUGH ASSEMBLY AGENDA STATEMENT

<u>AGENDA ITEM TITLE:</u>	<u>DATE:</u>	February 14, 2023
	<u>Agenda Section</u>	13

Approval of Tidelands Lease Renewal for Lot 7, Block 83-A, Wrangell Tidelands Addition for Lynne Campbell

SUBMITTED BY:

Kim Lane, Borough Clerk

FISCAL NOTE:

Expenditure Required: \$XXX Total

FY 21: \$	FY 22: \$	FY23: \$
-----------	-----------	----------

Amount Budgeted:

	FY22 \$XXX
--	------------

Account Number(s):

	XXXXXX XXX XXXX
--	-----------------

Account Name(s):

	Enter Text Here
--	-----------------

Unencumbered Balance(s) (prior to expenditure):

	\$XXX
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Reviews/Approvals/Recommendations

<input type="checkbox"/>	Commission, Board or Committee
Name(s)	
Name(s)	
<input checked="" type="checkbox"/>	Attorney
<input type="checkbox"/>	Insurance

ATTACHMENTS: 1. Proposed Lease Extension 2. Request from Lessee 3. Existing Lease

RECOMMENDATION MOTION:

Move to Approve the Renewal of the Tidelands Lease, described as Lot 7, Block 83-A, requested by Lynne Campbell.

SUMMARY STATEMENT:

The Tidelands Lease for Lynne Campbell expired September 2022. Ms. Campbell was notified of the expiration however, she was not able to respond right away.

Ms. Campbell send it a letter, requesting to renew her tidelands (attached). As per WMC 16.08.070, Renewal Periods, we are bringing this request to the Assembly for approval.

Since this is an existing lease, Port and Planning & Zoning Commission approval is not required. However, I did check with the Harbormaster to make sure that there are no issues with the renewal.

If approved, the new renewal date will be September 15, 2043 with six (6), five-year renewal options.

TIDELANDS LEASE AGREEMENT – RENEWAL

This Lease Agreement (Agreement) is made effective as of September 16, 2022 (“Effective Date”) between Lynne Campbell, whose mailing address 1191 Leisure World, Mesa, AZ 85206 (“Lessee”), and the City and Borough of Wrangell, a municipality, whose mailing address is PO Box 531, Wrangell, AK 99929 (“Borough”) (each a “Party” and collectively, the “Parties”).

WHEREAS, the Borough owns the property described below; and

WHEREAS, the Borough wishes to lease a parcel of land to Lynne Campbell; and;

The Borough and Lessee desire to enter into a lease agreement with respect to the following described property hereinafter referred to as the Premises which is depicted in Attachment A and is more particularly described as follows:

LEGAL DESCRIPTION

**Lot 7, Block 83-A, Wrangell Tidelands Addition, Wrangell Recording District,
consisting of 13,408 Square Feet.**

Located in the Wrangell Recording District, First Judicial District, State of Alaska.

The Lessee, applied for an extension of term for the above referenced lease, which was officially approved by the Wrangell City Council on May 19, 1970.

1. **LEASE TERM.** The term of this lease shall begin on September 16, 2022 and shall continue until September 15, 2043. ("Lease Term"). The expiration or termination of the Lease Term shall not terminate or otherwise extinguish any liability or obligation (including, without limitation, defense, and indemnification obligations) of either party hereto involving any act, omission, breach or default occurring prior to such expiration or termination. Upon expiration of the lease, Lessee may request no more than six (6), five-year renewal options.
2. **RENTAL.** During the Lease Term, Lessee shall pay the Borough rent for the Premises ("Rent") based on the appraised value. Such value shall be determined by the borough's assessor, or private appraiser, and approved by the borough assembly as provided in WMC **16.08.040**.

Lessee shall pay all property taxes assessed against the leased Premises.

3. In accordance with WMC **16.08.120** the annual rental payable pursuant to any lease issued under the provisions of this chapter shall be subject to adjustment by the assembly on the fifth anniversary of the date of the lease and each anniversary date thereafter which is

divisible by the number five. All adjusted rates shall be computed at six percent on the fair market value of the land and improvements owned by the borough and leased thereunder. Such value shall be determined by an appraisal made by the borough assessor and reviewed and determined by the assembly as provided in WMC [16.08.100](#).

4. OPERATION AND MAINTENANCE

- a. Lessee shall keep and maintain the leased premises in good and substantial repair and condition. This lease shall be subject to any rights of the public under the Public Trust doctrine.
- b. Lessee shall pay all taxes, fees, or assessments as may be required.
- c. Lessee shall not suffer or permit any lien to be filed against the Premises or Lessee's leasehold interest, by reason of work, labor, services or materials performed or supplied to Lessee or anyone holding the Premises or any part thereof under Lessee. If any such lien is filed, Lessee shall cause the lien to be discharged of record at least (30) days prior to any scheduled lien foreclosure sale. If the Lessee fails to discharge the lien within 30 days, such failure constitutes a material breach of the lease and a default.

5. TERMS AND CONDITIONS

- a. Lease Utilization. Leased lands shall be utilized only for purposes within the scope of the applicable land use classification and the terms of the lease, and in conformity with the ordinances of the Borough, including any zoning ordinance. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation by the Borough at any time.
- b. Subleasing and Assignment. The Lessee shall not sublease any part of the Premises. The Lessee shall not assign the lease without approval of the Borough Assembly and written consent to the assignment. The assignee shall be subject to all of the provisions of the original lease, and the assignor shall not be relieved of its obligations during the entire Lease Term. No proposed assignment to an LLC will be approved by the Borough without LYNNE CAMPBELL agreeing to guarantee the obligations of the assignee as part of the assignment or a member of the assignee personally guaranteeing performance of the proposed assignee.
- c. Modification. This Lease shall not be modified orally or in any manner other than by an agreement in writing signed by the Lessee and the Borough. Lessee specifically understands and agrees that no Borough employee, Assembly member, or the Mayor has any actual or apparent authority to verbally modify this lease and any modifications must be in writing approved by the Assembly.

- d. Improvements. The Lessee shall construct improvements suitable for the use of which the land is classified of a specified minimum value within two years from the date of the lease and that a Corps of Engineers permit shall be obtained prior to construction when required. Improvements in the limited context of the tidelands leasing provisions may include a parking lot with fill or surfacing, drainage, ingress and egress as the assembly shall require. The applicant shall be notified of the amount of the minimum annual rental and the value of the improvements required to be constructed thereon.
- e. Indemnification and Insurance
1. Indemnification of Lessor: Lessee agrees to indemnify, defend and save Lessor harmless against and from any and all claims, actions and proceedings or any kind and any nature by or on behalf of any person, entity or corporation, arising from the conduct or management of or from any work or thing whatsoever done in or about the leased Premises, or arising out of or related in any way to the Lessee's use of the Premises, beginning May 9, 2019, regardless of when such claims may have occurred, arose or accrued, which in any way relate to the leased premises, including, without limitation, in connection with Hazardous Materials. Lessee also agrees to indemnify, defend and save Lessor harmless against and from any and all claims arising during the lease term from any condition of the leased property. Lessee also agrees to indemnify, defend and save harmless Lessor from any and all claims, including but not limited to physical injury, death, property damage, special damages, consequential damages, expenses, costs, and attorney's fees, directly or indirectly arising out of, in connection with, or incident to the operation of the leased Premises or arising from any breach or default on the part of Lessee in the performance of any covenant or agreement on the part of Lessee to be performed, pursuant to the terms of this lease, or arising from Lessee's failure to comply with any law, ordinance or regulation of any governmental body, or arising from any negligent act or omission of Lessee or any of its agents, contractors, servants, employees, licensees, guests and sublessees and any agents, contractors, servants, employees, licenses and guess of its sublessees. Lessee's obligation to defend, indemnify and save Lessor harmless shall include Lessee's payments of reasonable actual attorneys' fees.

2. Insurance: Lessee shall provide to the Borough a certificate of insurance showing that the Lessee has obtained at least one million dollars (\$1,000,000.00) general liability insurance, which covers the Lessee's operations on the leased Premises. Lessee shall provide the Certificate of Insurance, naming the Borough as an additional insured, at the time of the effective date of the lease. Failure to maintain such insurance shall constitute a material breach of the terms and conditions of the lease and a default. Lessee shall notify the Borough twenty (20) days before the policy is canceled or terminated and unless the Lessee provides a new Certificate of Insurance within 30 days of cancellation or termination, the Borough may immediately terminate this lease without further notice at its sole option. Any violation of this provision constitutes a material breach of the lease.

3. Hazardous Waste Responsibility and Indemnification: Lessee represents and warrants that the leased Premises will never be used for the generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance. The term "Hazardous Waste or Substance" means hazardous or toxic substances, materials or wastes, including but not limited to any substance, material or waste which is (i) petroleum; (ii) asbestos; (iii) polychlorinated biphenyls (PCBs); (iv) toxic or hazardous substances as defined in Alaska Statute 18.60.105 or 46.03.826, and associated regulations; (v) designated as a "Hazardous Substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ' 9601, et. seq.; (vi) designated as a "Hazardous Waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. ' 6901, et. seq.; (vii) designated as a "Hazardous Substance" under the Clean Water Act, 33 U.S.C. ' 1321, or listed pursuant to 33 U.S.C. § 11317; (viii) listed by the U.S. Department of Transportation at 49 C.F.R. Part 302; and (ix) any other substance, waste or material which is regulated as hazardous or dangerous by any Federal, State or local agency. Lessee agrees to hold Lessor harmless and to indemnify and defend Lessor against any and all claims and losses resulting from Lessee's breach of this Section, including, but not limited to, any loss, damage, liability, cost, or expense, including reasonable actual attorneys' and consultants' fees and expert fees, and including without limitation (i) any claims

of third parties for personal injury, death, property damage, or other harm, and (ii) any response costs, costs of remedial, restoration or clean-up actions, fines suffered or incurred by Lessor arising out of or related to the presence of Hazardous Materials in, on, or under the property, or out of any such use of the property, or due to the incorporation of such materials. This obligation to indemnify, defend and hold Lessor harmless shall survive the term of this lease and include any claim, cause of action or administrative regulatory enforcement action in which Lessee or Lessor are determined or alleged to be a potentially responsible party.

f. Default, Cancellation and Forfeiture.

1. The Lease may be canceled in whole or in part, at any time, upon mutual written agreement by Lessee and the Borough. The Lease may be terminated at any time by either party upon ninety (90) days' written notice in writing to the other party before the end of a monthly rental period. **The lease shall terminate automatically on September 15, 2043 unless Lessee requests an extension.**
2. If the lessee defaults in the performance or observance of any of the lease terms, covenants or stipulations, or any portion of Borough code as applied to the property, the Lessee is automatically in default on the lease by operation of law. If such default continues for thirty (30) calendar days after service upon lessee of written notice of default by the Borough without remedy by Lessee of the default, the Borough Manager shall take such action as is necessary to protect the rights and best interests of the Borough, including the exercise of any or all rights after default permitted by the lease. No improvements may be removed by Lessee or any other person during any time the Lessee is in default.
3. The Borough may cancel the lease if it is used for any unlawful purpose.
4. Failure to make substantial use of the land, consistent with the proposed use, within one year shall with the approval of the Borough constitute grounds for cancellation.

- g. Remedies Cumulative. The specified remedies to which the Borough may resort under the terms of this Agreement are cumulative and are not intended to be

exclusive of any other remedies or means of redress to which the Borough may lawfully be entitled in case of any breach or threatened breach by Lessee of any provision of this Agreement. In addition to the other remedies in this Agreement provided, the Borough shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation, of any of the covenants, conditions, or provisions of this Agreement.

- h. Notice or Demand. Any notice or demand, which under the terms of the lease or under any statute must be given or made by the parties shall be in writing and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in the U.S. mails enclosed in a registered or certified mail prepaid envelope addressed as herein provided.
- i. Entry and Reentry. In the event the lease is terminated, or in the event that the leased Premises, or any part thereof, are abandoned by the Lessee during the lease term, the Borough or its agents or representative, may, immediately or any time thereafter, reenter and resume possession of the Premises and remove all persons and property either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages to the Lessee or any other person or entity. No reentry by the Borough shall be deemed an acceptance of a surrender of the lease.
- j. Re-Lease. In the event that the lease is terminated, the Borough may offer the Premises for lease or other disposal in accordance with the Borough code.
- k. Forfeiture of Rental. In the event that the lease is terminated because of any breach by the Lessee, the monthly rental payment last made by the Lessee shall be forfeited and retained by the Borough.
- l. Written Waiver. The receipt of rent by the Borough with knowledge of any breach of the lease by the Lessee, or of any default on the part of the Lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the Borough to enforce any covenant or provision contained in this Agreement, nor any waiver of any right by the Borough unless in writing, shall

discharge or invalidate the covenants or provisions or this lease or otherwise affect the right of the Borough to enforce the lease in the event of any subsequent breach or default. The receipt by the Borough of any other sum of money after the termination in any manner, of the lease term or after the giving by the Borough of any notice to effect termination, shall not reinstate, continue or extend the resultant lease term or destroy or in any manner impair the efficiency of any such notice or termination as may have been given by the Borough to the Lessee prior to the receipt of any sum of money or other consideration, unless so agreed to in writing and signed by the Borough manager.

m. Expiration of Lease. Unless the lease is renewed or sooner terminated, as provided herein, the Lessee shall peaceably and quietly leave and surrender to the Borough all the leased Premises on the last day of the term of the lease.

n. Renewal of Lease:

1. Upon the expiration of the lease term or the cancellation of the lease by mutual consent of the Borough and the Lessor, the Borough may grant a new lease to the Lessee provided:
 - i. Lessee makes written application at least ninety (90) days prior to expiration of the lease term;
 - ii. The Lessee is not in default under the lease;
 - iii. The use to which the land is to be put is compatible with the current use classification and zoning provisions of the Borough code.
2. This lease does not grant to the Lessee any renewal preference or right to a renewal of the lease or to a new lease and the Lessee has no right to a renewal of the lease or to a new lease.

o. Removal or Reversion of Improvements upon Termination of Lease:

Improvements owned by the Lessee may within sixty (60) calendar days after the termination of the lease be removed by the Lessee, provided, such removal will not cause injury or damage to the lands or improvements on the Premises. All periods of time granted the Lessee to remove improvements are subject to the Lessee paying to the Borough pro rata lease rentals for such periods. If any improvements and/or chattels are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest, in the Borough.

p. Compliance with Regulations and Code:

1. The Lessee shall comply with all regulations, rules, and the Borough code and with all state and federal regulations, rules and laws.
2. The lessee shall comply with all provisions of the Borough code which are promulgated for the promotion of sanitation, life safety and public health. The leased premises shall be kept in a neat, clean and sanitary condition, and every effort shall be made to prevent pollution.
3. Fire protection. The Lessee shall take all reasonable precaution to comply with provisions of the Borough code concerning fire protection applicable to the area of the leased Premises.

q. Inspection: The Lessee shall allow an authorized representative of the Borough to enter the leased land at any reasonable time for the purposes of inspecting the land and improvements thereon

r. Use of Material: All coal, oil, gas and other minerals, and all deposits of stone, earth or gravel valuable for extraction or utilization, are reserved by the Borough and shall not be removed from the land except with written permission of the Borough. The Lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used if its use is first approved by the Borough in writing.

s. Rights-of-Way: The Borough expressly reserves the right to grant easements or rights-of-way across leased land if it is determined in the best interest of the Borough to do so. If the Borough grants an easement or right-of-way across any of the leased land, the Lessee shall be entitled to damages for all lessee-owned improvements destroyed or damaged. Damages shall be limited to the value of improvements only and the value shall be determined by fair market value. Monthly rentals may be adjusted to compensate the Lessee for the loss of use.

t. Warranty: The Borough does not warrant by its classification or leasing of land that the land is ideally suited for the use authorized under the classification or lease and no guaranty is given or implied that it will be profitable to employ land to be used by the Lessee.

6. **ENTIRE AGREEMENT.** This Lease Agreement contains the entire and integrated agreement of the parties and supersedes all other prior leases, agreements, and oral or written communications or negotiations. If any term of this Agreement is held to be invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall be valid and binding upon the parties. This Agreement

shall be binding upon the parties and upon their respective executors, administrators, legal representatives, successors, and assigns.

7. **GOVERNING LAW, JURISDICTION AND VENUE.** The Superior Court for the State of Alaska, First Judicial District at Wrangell, Alaska shall be the exclusive jurisdiction and venue for any action of any kind or any nature arising out of or relating in any way to this Lease Agreement and the use of the leased Premises.
8. **TITLES AND HEADINGS.** Titles and headings to sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.
9. **REPRESENTATIONS BY LESSEE.** Lessee acknowledges and agrees that Lessee is not relying on any representations by any Borough employee, officer, assembly member, mayor, consultant or attorneys. Lessee acknowledges and agrees that Lessee has had a full opportunity to consult with Lessee's own attorney before entering this Lease.
10. **NOTICE.** All notices and requests in connection with this lease shall be in writing and shall be addressed as follows:

City and Borough of Wrangell
Borough Manager
PO Box 531,
Wrangell, Alaska 99929

Lynne Campbell
1191 Leisure World
Mesa, AZ 85206

IN WITNESS WHEREOF, the parties hereto have executed this lease as of the date first written above.

LYNNE CAMPBELL

City of Borough of Wrangell

By:

By: _____

Name: Lynne Campbell

Name: Patricia Gilbert

Title:

Title: Borough Mayor

Date:

Date:

APPROVED AS TO FORM:

JDO Law
Attorneys for City & Borough of Wrangell

By: _____

January 17, 2023

Kim Lane, Borough Clerk:

Thank you for the reminder that the Tideland Leases for Lot 7, Block 83A expired on Sept. 16, 2022.

I very much want to renew the Lease with the City of Strangell. Your letter makes reference to Campbell Towing Company. Is the expired lease in that name or mine? If not mine would it be possible to get it changed?

Also, the City needs my new address. I became an Arizona resident in July!

~~1111 Strangell Blvd, Strangell, OR 97136~~
~~(503) 429-4975~~

Sincerely,

Lynne Campbell

**CONSENT TO ASSIGNMENT
OF
TIDELANDS LEASE**

[Wrangell Recording District]

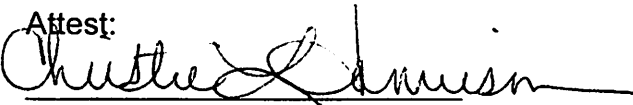
PURSUANT TO Wrangell Municipal Code § 16.08.040, the **City of Wrangell, Alaska**, of Post Office Box 531, Wrangell, Alaska 99929, hereby consents to the assignment of that certain Lease dated May 19, 1970, and recorded on August 3, 1999, in the Wrangell Recording District in Book 31 at Page 913 *et seq.* (Document No. 1999-000512-0), from **Campbell Towing Company**, of Post Office Box 170, Wrangell, Alaska 99929, to **Leonard Campbell** and **Lynne Campbell**, of Post Office Box 123, Wrangell, Alaska 99929. The leased real property is situate in the Wrangell Recording District, First Judicial District, State of Alaska, and more particularly described as follows, to-wit:

Lot 7, Block 83-A, as shown on the Wrangell Tidelands Addition map, Wrangell Recording District, First Judicial District, State of Alaska.

In accordance with Wrangell Municipal Code § 16.08.040, this consent does not release Campbell Towing Company from the terms of the above-described Lease.

Dated at Wrangell, Alaska, this 5th day of October, 2004.


Attest:


Christie Jamieson
City Clerk

City of Wrangell, Alaska

Lessor

By


Patricia Gilbert
Vice Mayor

The foregoing instrument was acknowledged before me this 5th day of October, 2004, by **Patricia Gilbert** and **Christie Jamieson**, Vice Mayor and City Clerk, respectively, of the City of Wrangell, Alaska.



Jennifer L. Beel
Notary Public for Alaska
Commission expires: 12-25-07

75

BOOK 31 PAGE 913

LEASE

(ALASKA)

THIS INDENTURE, Made this 19th day of Mayin the year of our Lord one thousand nine hundred seventyBETWEEN City of Wrangell, Alaskaas lessor-----, and Campbell Towing Company, Wrangell, Alaska

----- as lessee-----,

WITNESSETH, That the said lessor---- do^{es} by these presents lease and demise unto the said lessee-----, and the said lessee---- do^{es} hereby hire and take from the said lessor-----, certain premises located in Wrangell, State of Alaska, described as follows, to-wit:

Lot 7, Block 83-A, as shown on the Wrangell Tidelands
Addition Map.

SUBJECT TO ALL PROVISIONS OF WRANGELL TIDELANDS ADDITION ORDINANCE
NO. 245

with the appurtenances, for the term of fifty-five years (55 years) from
the 16th day of September one thousand nine
hundred Sixty Seven at the annual rent or sum of
Forty dollars and 22/100 (\$40.22) Dollars,
payable in lawful money of the United States of America annually in advance,
on the 16th day of each September each year ~~day of each and every month~~ during said term

AND IT IS HEREBY AGREED, That if any rent shall be due and unpaid, or if default shall be made in any of the covenants herein contained, or breach thereof, then it shall be lawful for the said lessor----- to re-enter the said premises and remove all persons and goods therefrom; and the said lessee---- do^{es} hereby covenant, promise and agree to pay the said lessor----- the said rent in the manner hereinbefore specified and not to let or underlet the whole or any part of the said premises without the written consent of the said lessor-----, nor assign this lease or any part thereof without said written consent; nor shall the interest of the lessee----- be transferred by operation of law through any execution sale or bankruptcy proceeding;-----
and at the expiration of the said term, the said lessee----- will quit and surrender the said premises in as good state and condition as reasonable use and wear thereof will permit (damage by the elements or fire excepted).-----

TIDELAND LEASE SUBJECT TO ALL PROVISIONS OF CITY OF WRANGELL, ALASKA ORDINANCE

NO. 245

In Witness Whereof, The said parties have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in presence of

Henry H. Hance (SEAL)
MAYOR

John J. Hance (SEAL)
CITY CLERK

BOOK 31 PAGE 914

UNITED STATES OF AMERICA,
STATE OF ALASKA.

Individual Acknowledgment (Alaska)

ss.

THIS IS TO CERTIFY that on this 19th day of May, 19 70

before me the undersigned, a Notary Public in and for the State of Alaska, duly commissioned
and sworn, personally appeared Donald J. House, Mayor and Joyce Rasler, City Clerk
of City of Wrangell, Alaska

to me known to be the person S described in and who executed the above and foregoing instru-
ment, and acknowledged to me that T he Y signed and sealed the same freely and volun-
tarily for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for State of Alaska. My commission expires

William R. T. Smith
June 4, 1973.

Please return to:
City Clerk
City of Wrangell
P.O. Box 531
Wrangell, AK 99929

BOOK 31 PAGE 913

LEASE

(ALASKA)

THIS INDENTURE, Made this 19th day of Mayin the year of our Lord one thousand nine hundred seventyBETWEEN City of Wrangell, Alaskaas lessor, and Campbell Towing Company, Wrangell, Alaska

as lessee,

WITNESSETH, That the said lessor do^{es} by these presents lease and demise unto the said lessee, and the said lessee do^{es} hereby hire and take from the said lessor, certain premises located in Wrangell, State of Alaska, described as follows, to-wit:

Lot 7, Block 83-A, as shown on the Wrangell Tidelands
Addition Map.

SUBJECT TO ALL PROVISIONS OF WRANGELL TIDELANDS ADDITION ORDINANCE
NO. 245

with the appurtenances, for the term of fifty-five years (55 years) from
the 16th day of September one thousand nine
hundred Sixty Seven at the annual rent or sum of
Forty dollars and 22/100 (\$40.22) Dollars,
payable in lawful money of the United States of America annually in advance,
on the 16th day of each September each year ~~day of each and every month during said term~~

AND IT IS HEREBY AGREED, That if any rent shall be due and unpaid, or if default shall be made in any of the covenants herein contained, or breach thereof, then it shall be lawful for the said lessor to re-enter the said premises and remove all persons and goods therefrom; and the said lessee do^{es} hereby covenant, promise and agree to pay the said lessor the said rent in the manner hereinbefore specified and not to let or underlet the whole or any part of the said premises without the written consent of the said lessor, nor assign this lease or any part thereof without said written consent; nor shall the interest of the lessee be transferred by operation of law through any execution sale or bankruptcy proceeding; and at the expiration of the said term, the said lessee will quit and surrender the said premises in as good state and condition as reasonable use and wear thereof will permit (damage by the elements or fire excepted).

TIDELAND LEASE SUBJECT TO ALL PROVISIONS OF CITY OF WRANGELL, ALASKA ORDINANCE
NO. 245

In Witness Whereof, The said parties have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in presence of

MAYOR

CITY CLERK

BOOK 31 PAGE 914

UNITED STATES OF AMERICA,
STATE OF ALASKA.

Individual Acknowledgment (Alaska)

ss.

THIS IS TO CERTIFY that on this 19th day of May, 19 70
before me the undersigned, a Notary Public in and for the State of Alaska, duly commissioned
and sworn, personally appeared Donald J. House, Mayor and Joyce Rasler, City Clerk
of City of Wrangell, Alaska

to me known to be the person S described in and who executed the above and foregoing instru-
ment, and acknowledged to me that T he Y signed and sealed the same freely and volun-
tarily for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for State of Alaska. My commission expires

William B. T. Smith
June 4, 1973.

Please return to:
City Clerk
City of Wrangell
P.O. Box 531
Wrangell, AK 99929

No. _____

LEASE
(ALASKA)

FROM _____

TO _____

Dated _____, 19 _____

FILED FOR RECORD AT REQUEST OF _____

on the _____ day of _____, 19 _____

at _____ minutes past _____ M.

and recorded in volume _____

of _____, Page _____

Records of U. S. Commissioner

By _____ Precinct _____

Deputy. _____

CITY OF WRANGELL, ALASKA

CERTIFICATE

I, Christie L. Jamieson, the duly appointed and qualified City Clerk of the City of Wrangell, do hereby certify that the attached Lease, dated May 19, 1970, is a true and correct copy of the original.

IN TESTIMONY WHEREOF, and hereunto set my hand and the seal of said City of Wrangell, this 21st day of July, 1999.

Christie L. Jamieson

Christie L. Jamieson
City Clerk



000512
WRANGELL
RECORDING DISTRICT
18cc

1999 AUG -3 A 8:57
REQUESTED BY City of Wrangell



Item d.

Enhanced Contrast

Map



Enhanced Contrast

Dark Map



CITY & BOROUGH OF WRANGELL, ALASKA BOROUGH ASSEMBLY AGENDA STATEMENT

<u>AGENDA ITEM TITLE:</u>	<u>DATE:</u>	February 14, 2023
	<u>Agenda Section</u>	13

Discussion and possible direction for a resolution to support the Alaska Trollers Association against a lawsuit to stop the Chinook Salmon fishery in southeast Alaska

SUBMITTED BY:

Jeff Good, Borough Manager

FISCAL NOTE:

Expenditure Required:

FY 21: \$	FY 22:	FY23: \$
-----------	--------	----------

Amount Budgeted:

	FY21 \$0
--	----------

Account Number(s):

	Detail provided below
--	-----------------------

Account Name(s):

	Detail provided below
--	-----------------------

Unencumbered Balance(s) (prior to expenditure):

	Detail provided below
--	-----------------------

Reviews/Approvals/Recommendations

<input type="checkbox"/>	Commission, Board or Committee
Name(s)	
Name(s)	
<input type="checkbox"/>	Attorney
<input type="checkbox"/>	Insurance

ATTACHMENTS: 1. Proposed draft Resolution from AK Trollers Association. 2. Other information provided by AK Trollers Association.

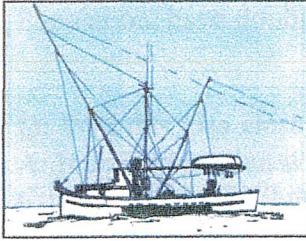
RECOMMENDATION MOTION:

Discussion and possible direction.

SUMMARY STATEMENT:

The Wild Fish Conservancy (WFC), a Washington State NGO claims the National Marine Fisheries Service (NMFS) did not sufficiently protect the Southern Resident Killer Whale

population's food source, the Chinook, in their Biological Opinion for the Southeast Alaska Fisheries governed by the Pacific Salmon Treaty. WFC's lawsuit targets the Southeast troll fishery for closure, arguing that will help the Southern Resident Killer Whale Population.



Alaska Trollers Association

130 Seward #205
Juneau, AK 99801
(907) 586-9400
alaskatrollers@gmail.com

Questions and Answers about the Wild Fish Conservancy's Lawsuit and ATA

Q: What's happening?

A: A Puget Sound based radical environmental group, the Wild Fish Conservancy (WFC), is suing the National Marine Fishery Service (NMFS) over NMFS's Biological Opinion (BI-OP), and in turn, asking the judge to close the winter and summer chinook troll fisheries. A BiOp complements some of the harvest for certain species, in this case certain Chinook stocks, that are managed under the international agreement between Canada and the U.S. This agreement is called the Pacific Salmon Treaty (PST or "Treaty"). SEAK harvest rights are protected by the PST and by a tradition of over a hundred years of historic use.

The WFC is alleging that there was insufficient analysis to show that endangered king stocks and SRKW wouldn't be harmed by the king salmon harvest levels allowed under the 2019 Bi-lateral Treaty.

Q: What's new in the Wild Fish Conservancy's (WFC) Lawsuit?

A: On December 14, 2022, Magistrate Peterson recommended to presiding Judge Jones of the Seattle Federal Court to Vacate the Incidental Take Statement (ITS) included in NMFS's Biological Opinion. The ITS allows SEAK fisheries to incidentally harvest some ESA listed Puget Sound Chinook. Magistrate Peterson was tasked with doing a Report and Recommendation (R&R) to Judge Jones, the presiding Judge. The R&R was issued on 12/12/22 with a deadline to file objections on 1/10/23. ATA, The State of Alaska, and NMFS responded to respond to the R&R by the 1/10/23 deadline. All parties have until 1/23/23 to file replies to the objections. Sometime after those replies are due (we don't know when), Judge Jones will make his ruling on the issue.

Q: What action is Magistrate Peterson Recommending?

A: Vacating our ITS and remanding the BiOp to NMFS. This could very well close the winter troll fishery as early as this month and prevent the summer fishery from opening for all troll species. In a worst-case scenario this would keep these fisheries closed for two years.

Q: What is the Issue?

A: Lower 48 origin Chinook (the % of which is much lower than the WFC claimed 97%) in SEAK spend more of their lives in Alaskan waters than in lower 48 waters. They mature and grow by preying on Alaska's feed stocks (like herring and needle fish) which live in Alaska's pristine habitat. Unlike Puget Sound, SEAK waters are not toxic, have no fish farms, and (so far) has little critical habitat loss. While the "L Pod" population has slightly declined in recent years other SRKW populations, such as the Vancouver Island Population and the Southern Alaska

contaminated marine mammal due to the time they spend in the Puget Sound.

The primary threats to Southern Resident orca are human-caused pollution and disturbances in Puget Sound. Increases in pollution of various types from vessels, vehicles, industrialization and urbanization, residential and agricultural sources are limiting the recovery of the Southern Resident orcas and causing nutritional stress, higher death rates or failed pregnancies

WFC says that Southern Resident Killer Whales (SRKW) are starving and the SEAK Chinook harvest is, "Taking Chinook out of the mouths of starving baby killer whales". The science contradicts this saying that SRKW are suffering from the highest concentration of PCBs of any mammal on earth. PCB contamination severely impacts birth rates and calf survival. The "L Pod" and their Puget Sound Chinook prey have been decimated by habitat loss, industrial pollution, fish farms, and all the accoutrements of the fastest growing megalopolis in the U.S.

At the same time that the "L Pod" of SRKW were declining in population other SRKW populations have doubled and tripled. Some marine biologists say that "These other SRKW may have, in fact, reached carrying capacity".

The science demonstrates that the "L Pod" as Apex Predators are suffering from the highest **polychlorinated biphenyl (PCB)** contamination of any marine mammal on earth.

Q: Will the lawsuit just affect trollers?

A: All SE Chinook fishermen could see reductions in allowable catch if the quota is reduced. Trollers, charter fishermen, resident sport fishermen, seiners and gillnetters will all be affected.

Q: What are Federal Waters?

A: Federal waters are all waters more than three (3) miles offshore.

Q: How does this affect SEAK/Wrangell?

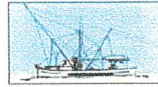
A: The Treaty sets the Chinook quota for all SE Chinook fishermen. If the court decides that the SE catch jeopardizes endangered species the quota could be further reduced. If the presiding Judge accepts the Magistrates recommendations and trolling is shut down, some processors will go under and communities who depend on things school enrollment will be severely affected. At more than a \$85M total annual economic, trolling's contribution to SE is exceptionally profound.

Q: What is ATA's ask?

A: 7500.00 to defeat WFC (Wild Fish Conservancy)

Q: Why should the Wrangell city and borough support ATA's legal fund in fighting the WFC lawsuit?

A: The suit not only threatens the troll industry, it also puts the entire southeast economy in jeopardy.



ALASKA TROLLERS ASSOCIATION

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A 2022 report prepared by the **Alaska Longline Fishermen's Association (ALFA)** and the **Alaska Trollers Association (ATA)** responds to the campaign waged by the Wild Fish Conservancy, a Washington State corporation, to blame the Southern Resident orca's population decline on the Southeast Alaska troll fishery - a fleet of small fishing vessels operated by independent fishing families 1000 miles away from the whales' habitat. The report reviews the substantial amount of research detailing the influence of habitat degradation and human pressure on orca population viability and the decades of data establishing that the marine fishery impacts on salmon stocks of importance to the Southern Resident orcas are low – and lowest in Alaska.

- **Pollution, industrial toxins, urbanization, habitat loss and human-caused disturbance are the primary factors limiting the recovery of the Southern Resident orcas:** Any one factor – acoustic disturbances from vessel traffic, the orca observing industry, chemical contaminants, or habitat harms specific to Chinook, chum and coho salmon – may be a significant cause of nutritional stress, higher death rates or failed pregnancies. In short, Southern Resident orcas are threatened primarily because of their prolonged residence each year in Puget Sound and inland Southern British Columbia waters, all areas that are heavily used and contaminated by a growing human population.
- **Vessel traffic alone may be a primary cause of Southern Resident orca population declines:** The Salish Sea has become one of the busiest areas of marine traffic in the world. Vessel strikes are a common cause of injury or death. Noise pollution from vessel traffic is chronic in key foraging areas and makes it difficult for orcas to find and capture prey. The number of commercial orca observing vessels alone that concentrate around foraging orcas has more than quintupled since the 1980s and disrupts orca foraging success. Major increases in noise pollution and the increasing intensity of orca observation correlate strongly with Southern Resident population declines.
- **Southern Resident orcas are among the world's most contaminated marine mammals:** One of the main threats to Southern Resident orca survival - and salmon population recovery - is the high toxic contaminant burden borne by both species which forage in urban and industrial areas. Numerous toxic contaminants – even if banned years ago - persist at high levels today in the Salish Sea marine environment. Female orcas transfer contaminants to calves during pregnancy and while nursing. Calves and juvenile orcas are susceptible to severe health consequences that include shorter life expectancies and lower chances of reproductive success. The contaminants increase the number of failed pregnancies and the post-birth calf mortality rates. The contaminants have the same effects on salmon, particularly salmon species that spend the most time in the Salish Sea, particularly Chinook.
- **Chinook-eating orcas outside the Salish Sea are thriving:** Southern Resident orcas are the only orca population that preys on Chinook in the northeastern Pacific that is declining. Northern and Alaska Resident orca population levels have at least doubled since 1980. The Northern Resident population grew from 120 individual orcas in 1975 to over 300 orcas today, potentially consuming nearly a million more Chinook salmon each year than they did fifty years ago. Overall, the three resident populations consume between 1.6 and 2.3 million Chinook each year, exceeding harvest in all marine, terminal, and freshwater fisheries. There are healthy orcas within the Southern Resident population, and cases of nutritional stress in all northeastern Pacific orca populations that have access to abundant prey. Factors other than a lack of food, such as individual health issues or external disturbances from noise and vessels are more likely causes of nutritional stress for some orcas.
- **Fishery managers have increased the amount of Chinook available to the Southern Resident orcas:** Ocean fisheries have borne substantial cuts to harvests of healthy Chinook stocks for decades to enable higher escapements of infrequently caught weaker stocks. Despite the cuts, there has been no meaningful improvement in Southern Resident orca population productivity because of the failure to address other much more significant impacts. Chinook terminal

run sizes (numbers of fish returning to areas near their natal rivers) in the Salish Sea are over a third larger than they were during the 1990s. Multiple analyses conclude that additional cuts to already low ocean fishery exploitation rates would be unlikely to help recover the Southern Resident orca population.

- **Impacts to stocks of importance to the Southern Resident orcas are minimal in ocean fisheries:** Southern Resident orcas mostly forage on Chinook stocks off the Washington Coast in winter and inland Salish Sea in summer. In general, ocean fisheries have very low impacts on these stocks and the distant Alaska troll fishery has the smallest impact. Many Puget Sound Chinook spend their entire lives in the Salish Sea and very few migrate as far north as Alaska. Sport fishermen in British Columbia and Puget Sound catch 70,000 Puget Sound Chinook in any given year – more than 100 to 200 times as many harvested in the Southeast Alaska troll fishery.
- **Columbia and Snake River summer and fall populations harvested in the Alaska troll fishery have been resilient:** In general returns over the past decade are much higher than they were from the 1980s through the 2000s. During the 21st century, total annual runs have exceeded a million Chinook and long-term annual escapement rates have improved dramatically, vastly exceeding escapement goals. As with other stocks, Southeast Alaska harvests of Columbia River salmon are a small proportion of the harvest compared to other fisheries. Columbia River net and sport fisheries alone harvested nearly 220,000 Columbia River Chinook in 2021 – more than the troll fishery's total mixed stock harvest.
- **Puget Sound habitat degradation is preventing salmon and orca recovery:** Multiple scientific analyses, and government reports all point to other factors that harm Salish Sea salmon targeted by the orcas – in particular, deteriorating habitat conditions. Fishery managers recognize that continued destruction and degradation of habitat, not fisheries, is the primary problem limiting the viability of Puget Sound Chinook. Dams and barrier culverts found throughout Puget Sound watersheds block access to habitat and degrade downstream spawning and rearing habitat. Agricultural, industrial, and urban development have heavily altered or destroyed riparian habitats and estuaries that provide salmon habitat and maintain water quality for fish.
- **Conclusion: population, pollution and other disturbances are harming the orcas, not fisheries:** While Canadian fisheries and Washington and Oregon fisheries harvest far more Chinook than the Southeast troll fishery, the primary threats to Southern Resident orca are human-caused pollution and disturbances. Increases in pollution of various types from vessels, vehicles, industrialization and urbanization, residential and agricultural sources are limiting the recovery of the Southern Resident orcas and causing nutritional stress, higher death rates or failed pregnancies. The Wild Fish Conservancy's theory that fishing occurring hundreds of miles away in Alaska is causing orca mortality is not supported by data or research. Cuts to ocean fisheries have been the primary means of improving Chinook escapements over the past three decades and have increased the numbers of Chinook available to the orcas but the orca population has not recovered. As other habitat harms have continued and worsened, so too has the plight of Southern Resident orcas. Southern Resident orca face significant and worsening threats to their survival from population pressure in the Puget Sound area. The decline is disheartening but requires dedicated efforts to improve Salish Sea habitat conditions.
- **Troll fishery harvests are abundance-based and managed for sustainability:** The Pacific Salmon Treaty ensures the sustainability of marine fisheries by managing the fisheries based on the aggregate abundance of mixed, multiple Chinook stocks and enables the harvest of healthy stocks while protecting weaker stocks suffering from chronic habitat degradation.
- **Chinook harvested in Alaska are the highest quality seafood:** Chinook salmon provided by Southeast Alaska's troll fishery is the culinary world's salmon of choice, prized for their color, high oil content, firm texture, and succulent flesh. Trollers fish with hook and line gear on the open ocean and target individual adult salmon when they are "bright," or at their peak quality. Careful individual handling helps maintain this quality.
- **Seafood consumers, retailers and restaurants should feel confident that the Alaska troll fishery is not depleting the prey of Southern Resident orcas nor contributing to their ongoing decline.**



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Executive Summary

The following report prepared by the **Alaska Longline Fishermen's Association (ALFA)** and the **Alaska Trollers Association (ATA)** addresses factors that affect the Southern Resident orca and responds to the campaign waged by the Wild Fish Conservancy, a Washington State organization, to link orca decline to the Southeast Alaska troll fishery. This report is based on extensive review of the research, data, and published literature.

Pollution, industrial toxins, urbanization, habitat loss and human-caused disturbance are the primary factors limiting the recovery of the Southern Resident orcas. Any one factor – acoustic disturbances from vessel traffic, the orca observing industry, chemical contaminants, or habitat harms specific to Chinook, chum and coho salmon – may in itself be a significant cause of nutritional stress, higher death rates or failed pregnancies. In short, Southern Resident orcas are threatened primarily because of their prolonged residence each year in Puget Sound and inland Southern British Columbia waters, all areas that are heavily used and contaminated by a growing human population.

ALFA and ATA are Southeast Alaska-based commercial fishing organizations that represent community-based, small commercial fishing businesses. Their members support science-based fisheries management and work to safeguard the health of the marine and freshwater environments that support salmon and other marine life. ALFA markets wild, sustainably caught Alaska seafood under the Alaskans Own label throughout Alaska and the U.S. to fund its Seafood Donation Program and Fishery Conservation Network. Alaskans Own is a leader in the sustainable seafood movement and has helped address food insecurity issues throughout Alaska and the Northwest, delivering more than 640,000 donated Alaska seafood meals in 2020-2021.

Chinook salmon produced by Southeast Alaska's troll fishery are the culinary world's salmon of choice, prized for their color, high oil content, firm texture, and succulent flesh. Trollers fish with hook and line gear on the open ocean and target individual adult salmon when they are "bright," or at their peak quality. Careful individual handling helps maintain this quality. No fish is treated with more care from the time it leaves the water until it arrives on a plate.

Troll fishery harvests are managed under the Pacific Salmon Treaty using annual catch limits based on the aggregate abundance of mixed, multiple Chinook stocks that feed in the Gulf of Alaska. Treaty harvest regimes are abundance-based and designed to be sustainable. Each year fishery managers develop annual abundance indices that respond to changes in stock productivity to meet biologically based escapement goals and exploitation rate objectives. Fishery managers have been successful at keeping catches below pre-season catch limits, consistent with Treaty obligations. Each year there is a post-season analysis of the fisheries and re-evaluation of harvest objectives. The Alaska troll fishery is one of the most carefully monitored fisheries in the world, with in season reporting and extensive dockside sampling. This management system ensures compliance with major seafood sustainability standards that require the harvest of sustainable fish stocks, minimal environmental impact on the marine ecosystem biodiversity, and an effective management system capable of responding quickly to environmental changes.

The Wild Fish Conservancy seeks to eliminate Southeast Alaska's troll fishery - a fleet of small fishing vessels operated by independent fishing families. Although there are many conservation groups concerned about orcas, the Wild Fish Conservancy acted alone to sue NMFS two years ago as part of its effort to eliminate the troll fishery. The court narrowly ruled NMFS needed to revise an incomplete plan to increase hatchery Chinook production that would provide additional prey for Southern Resident orcas.

The Wild Fish Conservancy is now misusing the court's decision in its campaign by targeting retailers, restaurants and seafood sustainability certifiers with misleading media materials that falsely fault a small and distant salmon fishery

for the decline of the Southern Resident orca population. Their theory is that Southeast Alaska troll fishery catches of Chinook salmon are the primary cause of downward population trends for the Southern Resident orcas. This theory ignores a massive body of literature detailing the role of habitat degradation and human pressure on orca population viability. The theory also ignores decades of harvest and stock composition data establishing that the troll fishery's impact on coastwide Chinook abundance is small and more importantly, its impact on stocks of importance to the Southern Resident orcas is low.

Southern Resident orcas move through the Salish Sea (Puget Sound and southern British Columbia inland marine waters) and outer Washington coast during May through October in pursuit of Chinook, coho, and chum salmon. After October they move to the outer coasts of Washington and southern Vancouver Island and forage for Chinook and groundfish such as ling cod, dover sole and halibut. By March and April, they frequent areas near the mouth of the Columbia River, which is the peak return time for Columbia River Spring Chinook.

There is a massive body of research investigating the decline of the Southern Resident orca. The causes are simple but multiple, with current research focused on habitat loss, vessel traffic and contaminants. Salmon abundance has varied considerably over the past 40 years, and it is either a non-factor or the least significant factor affecting long-term trends for Southern Resident orca population.

Vessel traffic impacts to Southern Resident orcas

The Salish Sea has become one of the busiest areas of marine traffic in the world, generating unprecedented levels of noise pollution. Vessels collide with orcas or draw them into propellers and are a significant and frequent cause of injury or death. The traffic increases have degraded habitat used by the orca for foraging, socializing and reproduction and are likely a major limiting factor for the population. The noise pollution is chronic in key foraging areas and makes it difficult for orcas to find and capture prey. Major increases in noise pollution occurred concurrently with ongoing and past periods of population decline. There are also clear correlations between the increasing intensity of orca observation and Southern Resident population declines. The number of commercial orca observing vessels alone that concentrate around foraging orcas has more than quintupled since the 1980s and disrupts orca foraging success. Researchers have identified each one of these factors – collisions, noise pollution and orca observers – as a potential primary cause of the population decline.

Contaminant cocktail impacts to Southern Resident orcas and Pacific Northwest salmon

Southern Resident orcas are among the world's most contaminated marine mammals. One of the main threats to Southern Resident orca survival - and salmon population recovery - is the high toxic contaminant burden borne by both species which forage in urban and industrial areas. Contaminated forage fish cycle toxic chemicals throughout the food web which bioaccumulate in salmon and orcas. Commonly consumed contaminant cocktails consist of PCBs (polychlorinated biphenyls), PBDEs (polybrominated diphenyl ethers), DDT (dichlorodiphenyltrichloroethane, an insecticide) and PAHs (polycyclic aromatic hydrocarbons - chemicals found in stormwater run-off from roadways). These contaminants – even if banned years ago - persist at high levels today in the Salish Sea marine environment.

Female orcas transfer contaminants to calves during pregnancy and while nursing. Exposure at this young age makes calves and juvenile orcas susceptible to severe consequences: disrupted growth and development, impaired future foraging capacity and lower chances of reproductive success. The contaminants increase the number of failed pregnancies and the post-birth calf mortality rates. All the major chemicals compromise orca immune systems and shorten life expectancies by increasing susceptibility to the infectious diseases that are large sources of marine mammal mortality. Southern Resident orcas mature differently, are less fertile, and produce fewer healthy surviving calves than Northern and Alaska Resident orcas – populations that avoid the Salish Sea and have much lower contaminant

concentrations. The contaminants have the same effects on salmon, particularly salmon species that spend the most time in the Salish Sea, particularly Chinook.

Marine mammal predation on salmon exceeds fishery impacts

Southern Resident orcas are the only orca population that preys on Chinook in the northeastern Pacific that is declining. Northern and Alaska Resident population levels have at least doubled since 1980. The Northern Resident population grew from 120 individual orcas in 1975 to over 300 orcas today, potentially consuming nearly a million more Chinook salmon each year than they did fifty years ago. Overall, the three resident populations consume between 1.6 and 2.3 million Chinook each year, exceeding harvest in all marine, terminal, and freshwater fisheries.

Degradation of Salish Sea habitat for Southern Resident orcas rather than salmon abundance is the main factor that distinguishes their population trends from those of their near northerly neighbors. Also, between 1970 and 2015, Chinook consumption by harbor seals and California and Steller sea lions increased over ninety percent and is another source that may limit the number of Chinook available to Southern Resident orcas during years of lower abundance. Pinnipeds eat twice as much Chinook salmon as the orcas and 6 times as much as harvested in commercial and recreational fisheries.

Southern Resident orcas may be sick or unable to forage in a degraded Salish Sea, but they are not starving for lack of Chinook salmon

Numerous studies of orca diet composition and other available evidence contradict the theory that occasional downward fluctuations in Chinook abundance causes the orcas to starve or suffer nutritional stress. There are healthy orcas within the Southern Resident population, and cases of nutritional stress in all northeastern Pacific orca populations that have access to abundant prey. Factors other than a lack of food, such as individual health issues or external disturbances from noise and vessels may be causing nutritional stress for some orcas. Some of them may simply be too sick to eat. The most common causes of death for recovered orcas are not starvation but rather disease, vessel strikes and accidental stranding. If the orcas are not eating enough Chinook during their Salish Sea summer the problem is more likely factors that limit accessibility to Chinook rather than Chinook abundance. Injuries caused by or interactions with vessels and chronic noise pollution impairs the ability to catch or consume prey - and disproportionately impacts pregnant or lactating females.

Fishery interactions with Chinook stocks important to Southern Resident orcas

While numerous habitat conditions have deteriorated for both Southern Resident orcas and their prey, Chinook, coho and chum salmon, ocean fisheries have borne substantial cuts to harvests of healthy Chinook stocks for decades to enable higher escapements of infrequently caught weaker stocks. Despite the cuts, there has been no meaningful improvement in Southern Resident orca population productivity, likely because of the failure to address other much more significant impacts. The Pacific Salmon Treaty has reduced Alaska troll fishery catch by over 30 percent since 1985; over the same time period the Southern Resident orca population fluctuated up and down but overall *grew* by two percent. The cuts to ocean fishery harvests increased Chinook terminal run sizes (numbers of fish returning to areas near their natal rivers) in the Salish Sea by over a third since the 1990s. Multiple analyses conclude that additional cuts to already low ocean fishery exploitation rates would be unlikely to help recover the Southern Resident orca population.

To the extent that a focus on fisheries would be meaningful to the orcas, that focus would need to be on fisheries that exclusively harvest stocks that occur in the orcas range off the Washington Coast in winter and inland Salish Sea in summer. In general, ocean fisheries have negligible impacts on these stocks. Alaska's troll fishery harvests stocks that may migrate for six to eight hundred miles from harvest locations in Alaska before reaching the Washington

coast or mouth of the Columbia River and nearly a thousand miles before reaching the Bonneville Dam. Any Chinook not harvested by the distant troll fishery still have to evade capture by other fisheries and marine mammals for hundreds of miles to provide any benefit to Southern Resident orca.

The largest proportion of Chinook harvested in the Alaska troll fishery are non-Puget Sound stocks migrating to or through the Washington or British Columbia coasts during summer when the Southern Resident orcas frequent the Salish Sea. Most Puget Sound Chinook spend their entire life in the Salish Sea and Coastal British Columbia, where 85 to 90 percent of the summer and fall run harvest occurs. Canadian and southern U.S. sport and commercial Chinook harvests vastly exceed the annual Alaska troll fishery catch of 400 to 700 Puget Sound Chinook. Canadian and Puget Sound harvest overlaps extensively with Southern Resident orca priority stocks. Most of the Canadian sport harvest – 154,000 Chinook – occurs off the West Coast of Vancouver Island and in the Salish Sea, where Puget Sound Chinook comprise between ten and seventeen percent of the catch. The 2021 Salish Sea Chinook harvest in Washington State was roughly 122,000 Chinook, including an estimated 48,000 Chinook in the sport fishery – two-thirds of them in Puget Sound.

During the winter, Southern Resident orcas target a broader range of Chinook stocks but Columbia Spring runs are the most important, comprising over half of the Chinook consumed by Southern Resident orca in winter and spring. These runs vary in abundance but overall returns are much higher than they were during the 1980s and 1990s. Because most of the Columbia Spring runs have a non-coastal ocean distribution, marine fishery impacts on these stocks are negligible. The biggest harvest impact on these stocks is sport fishing downstream from the Bonneville dam; however dams are the main limiting factor overall for Columbia Basin stocks. Immediate increases in spill levels at Snake and Columbia River dams and the removal of lower Snake River dams are essential for the recovery of Spring Chinook and therefore the orcas as well.

Columbia and Snake River summer and fall populations harvested in the Alaska troll fishery migrate past the Washington coast during the summer when the orcas are in the Salish Sea. These stocks have been resilient during the 21st century, with total annual runs exceeding a million Chinook. Long-term annual escapement rates have improved dramatically, vastly exceeding escapement goals. Five of the highest Snake River returns of the 21st century occurred over the past decade. Summer Chinook run sizes over the past decade are three to four times as high as during the 1980s and 1990s. The most abundant stock, Columbia River Brights, contributes to numerous fisheries. These healthy stocks are the far-north migrating stocks from the Columbia River that benefit from feeding in the Gulf of Alaska where they may be harvested in the Alaska troll fishery.

Southeast Alaska harvests of Columbia River salmon may range between 30,000 and 50,000 fish in any given year and are a small proportion of the harvest compared to other fisheries. Columbia River net and sport fisheries alone harvested nearly 220,000 Columbia River Chinook in 2021 – more than the troll fishery's total mixed stock harvest. Angler effort on the mainstem Columbia increased rapidly over the last thirty years. Typically, Columbia River sport harvests exceeded 100,000 Chinook over the past decade – with most of harvest coming from the thriving Columbia River Bright stocks.

Puget Salmon habitat

NMFS approved continued implementation of the Puget Sound fisheries in a 2021 BiOp, further raising questions about why the Wild Fish Conservancy would target a distant fishery that harvests a small fraction of the total harvest of Puget Sound Chinook. The 2021 BiOp, multiple scientific analyses, and government reports all point to other factors that harm Salish Sea salmon targeted by the orcas – in particular, deteriorating habitat conditions. The increasing human population undermines both Chinook and Southern Resident orca population recovery. Fishery managers recognize that continued destruction and degradation of habitat, not fisheries, is the primary problem limiting the viability of Puget Sound Chinook. Indeed, more Puget Sound Chinook - 2,500 - died in one event in the Nooksack River's

South Fork in 2021 than Southeast Alaska trollers harvest in three or four years. These events recur across many Puget Sound rivers and returning Chinook, coho, and chum salmon that are primary prey for the orcas.

Washington state's population tripled to over seven million people between 1950 and 2018 and over two-thirds of the still growing population live in 12 counties adjacent to Puget Sound. The length of time salmon spend rearing in freshwater or nearshore Salish Sea marine habitats significantly influences regional salmon stock productivity patterns. Habitat quality at early life stages is critical to salmon survival, and the lengthy freshwater rearing stage and delayed ocean entry are a disadvantage for wild Puget Sound salmon. Dams are prevalent throughout Puget Sound watersheds, blocking access to habitat in many of the largest rivers and degrading downstream spawning and rearing habitat. Barrier culverts block access to thousands of miles of spawning habitat and prevent juvenile salmon from migrating within a watershed to rearing or overwintering habitat or moving to find food or refuge from adverse environmental conditions.

Logging and timber road construction has had significant impacts on upstream habitats – particularly the loss of riparian forests that maintain water quality and regulate stream temperatures and flows. Downstream agricultural and urban development removed riparian vegetation and trees, leaving unshaded watersheds with higher stream temperatures. Urban and highway runoff, wastewater treatment, failing septic systems and agriculture or livestock impacts further degrade water quality. Various developments, water diversions and high contaminant concentrations and other intensive uses degraded or destroyed Puget Sound estuaries where juvenile Chinook salmon rear extensively and continue to threaten these highly productive but vulnerable ecosystems. The degradation or loss of these habitats reduces salmon survival rates and drastically diminishes salmon returns. In sum, at-risk Chinook populations will continue to decline until the condition of Puget Sound watershed improves.

Conclusion

The Alaska troll fishery is sustainably managed under the Pacific Salmon Treaty based on the abundance of far-north migrating Chinook salmon that spend most of their lives feeding in the Gulf of Alaska. None of the Puget Sound Chinook populations are far north migrating, making impacts from Southeast Alaska marine fisheries extremely low. While Canadian fisheries off of Vancouver Island and the Strait of Juan de Fuca and Washington and Oregon fisheries in or near Puget Sound and the Columbia River take far more Chinook than the Southeast troll fishery, the primary threats to Southern Resident orca are associated with human-caused pollution and disturbance.

Increases in pollution of various types from vessels, vehicles, industrialization and urbanization, residential, agricultural, and timber management sources are the primary factors limiting the recovery of the Southern Resident orcas. Any one factor – acoustic disturbances from vessel traffic, the orca observing industry, chemical contaminants, or habitat harms specific to naturally spawning Chinook, chum and coho salmon – may be a cause of significant nutritional stress, higher death rates or failed pregnancies, but more than likely a combination of these factors are driving Southern Resident orca population trends.

The Wild Fish Conservancy's theory that commercial fishing alone, particularly fishing occurring hundreds of miles away in Alaska, is causing orca mortality and impeding growth is not supported by the numerous recent scientific analyses that track salmon abundance and Southern Resident orca diet composition and/or evaluate actual primary causes of population decline. Cuts to ocean fisheries have been the primary means of improving Chinook escapements over the past three decades. The significant sacrifices of harvest opportunities on the most abundant stocks by ocean fishermen have increased the numbers of Chinook available to the orcas but the orca population has not recovered. As other habitat harms have continued and worsened, so too has the plight of Southern Resident orcas.

Southern Resident orca face significant and worsening threats to their survival from population pressure in the Puget Sound area. The Southeast Alaska troll fleet is of little consequence to the survival of this species. **Seafood consumers, retailers and restaurants should feel confident that the Alaska troll fishery is not depleting the prey of Southern Resident orcas nor contributing to their ongoing decline.**

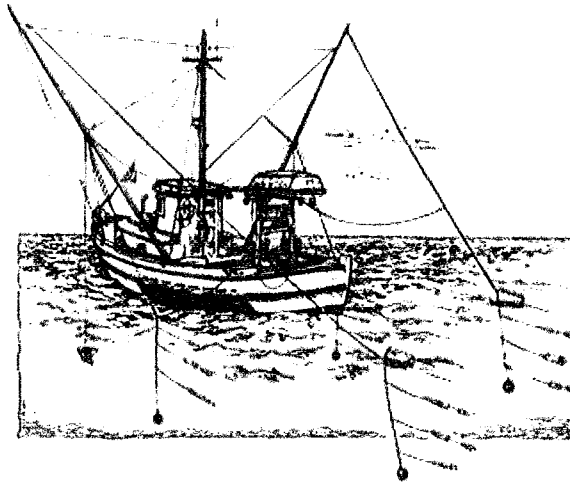
Contents

Executive Summary.....	i
Vessel traffic impacts to Southern Resident orcas	ii
Contaminant cocktail impacts to Southern Resident orcas and Pacific Northwest salmon.....	ii
Marine mammal predation on salmon exceeds fishery impacts.....	iii
Southern Resident orcas may be sick or unable to forage in a degraded Salish Sea, but they are not starving for lack of Chinook salmon.....	iii
Fishery interactions with Chinook stocks important to Southern Resident orcas.....	iii
Puget Salmon habitat.....	iv
Conclusion	v
1. Introduction	1
1.1 The Pacific Salmon Treaty	3
1.2 The Wild Fish Conservancy's lawsuit	4
1.3 Southern Resident orca population trends and range.....	4
1.4 Current threats to the Southern Resident Orca: pollution, people, traffic, marine mammals and Chinook habitat loss	5
2. Salish Sea Traffic and Toxins	7
2.1 Salish Sea Vessel Traffic impacts to orcas: noise pollution and orca watching	7
2.1.1 Noise Pollution impacts	8
2.1.2 Orca observing in critical habitat	8
2.1.3 Vessel collisions.....	9
2.1.4 Oil Spill risks	9
2.2 Salish Sea toxic pollution.....	10
3. Increases in predation.....	12
4. Marine Fishery Impacts and Southern Resident orca health.....	13
4.1 Southern Resident Chinook consumption and causes of nutritional stress	14
4.2 Fishery interactions with Chinook stocks important to Southern Resident orcas.....	15
4.2.1 Human harvest of Puget Sound stocks: mostly sportfishing and Canadian commercial/sport.....	17
4.2.2 Puget Sound habitat.....	19
4.2.3 Impacts to Coastal Chinook abundance.....	21
5. Conclusion	23
6. Reference List.....	24
7. Endnotes	27

1. Introduction

The troll fishery is a small boat fishery and one of the most important fisheries in Southeast Alaska, a region with more full-time fishery workers than any region in Alaska other than the Bering Sea.¹ In any given year, seven of the top

100 fishing ports by value in the entire country are likely to be Southeast Alaskan ports.² The top competitive strength is the high quality of Southeast Alaska seafood products, which include most of the Alaska harvest of high value Chinook salmon by the troll fleet.³ Troll-caught Chinook are by far the highest valued salmon species harvested in Southeast Alaska and typically comprise 44 percent of troll harvest value.⁴ In general troll fleet Chinook harvests averaged 199,000 fish per year over the past decade.⁵



Trolling is a unique, environmentally responsible fishery in large part because it is a low volume fishery in which fishers selectively target individual adult salmon with hook and line fishing gear. Fishing lines with lures are drawn through the water behind a moving boat. Fishers catch, clean and ice or freeze each fish.

Because of the special care and prompt processing, Southeast Alaska troll-caught Chinook are some of the highest quality seafood products in the world, harvested by fishers who are committed to quality, traceability and sustainability. Fishers respect the resource and adhere to science-based fisheries management. The low impact fishing gear is deployed from a fleet of individually owned and operated small fishing boats.

Southeast Alaska's troll fishery has the highest level of local ownership of any major Alaska fishery, making its survival critical to nearly all of Southeast Alaska's 33 communities. 85 percent of the fleet is local to Southeast Alaska.⁶ Between 900 and 1,100 trollers actively fish each year and Alaska residents earn roughly eighty percent of the fleet's annual ex-vessel value, which typically ranges from \$29 million to \$52 million.⁷

Many of the more remote communities, such as Edna Bay, Meyers Chuck, Point Baker, Port Protection, Port Alexander and Pelican, are historical fishing villages that rely almost exclusively on the troll fishery. Alaska Native villages such as Hoonah and Yakutat also depend on fishing and processing salmon caught in the troll fishery. The region's three largest communities – Juneau, Ketchikan and Sitka, and mid-sized communities of Haines, Petersburg and Wrangell – also rely on the troll fishery because of the large number of resident fishermen and contribution of the troll fishery to regional processing capacity and local economies.



The scenic Southeast Alaska fishing port of Pelican Alaska is one of many communities that depend on the troll fishery.

Southeast Alaska resident harvests, as well as harvests by non-resident fishermen who function as locals during the extended troll season, significantly benefit local economies through higher local expenditures on fuel, groceries, vessel repair and maintenance sectors and gear suppliers, generating induced economic effects that include more indirect employment and wage income circulating in the economy.⁸ Studies show that the value of high quality seafood such as salmon multiplies by a factor of four as harvested fish transit the economy from a hook to plates served to consumers in the Pacific Northwest and throughout the country.⁹ A typical troll fishery value of \$37 million per year generates \$148 million annually in economic outputs when adding in restaurant sales, consumer

purchases, transportation jobs and other benefits accruing throughout the west coast of the U.S. and beyond.¹⁰ The troll fleet is diverse, including hand trollers (who use hand-powered gurdies or fishing rods), power trollers who use hydraulic powered gurdies and sell iced fish to shore based processing plants and tenders, and 50 catcher-processors (freezer trollers which harvest fish and freeze them while at sea).¹¹



Southeast Alaska's troll fleet is a diverse, small boat fishery.
Photo credit: F/V Patience.

1.1 The Pacific Salmon Treaty

Southeast Alaska troll fisheries are part of a larger, international Chinook fishery regime managed pursuant to the Pacific Salmon Treaty ("Treaty"), which assigns conservation obligations and harvest sharing for Chinook stocks that migrate through U.S. and Canadian waters¹² There are roughly thirty-four distinctly managed marine net, troll and sport and freshwater sport and net fisheries that harvest substantial numbers of Chinook off the coast of British Columbia, in Georgia Strait, the Strait of Juan de Fuca (both Canada and the U.S.), in south and north Puget Sound, the Washington coast, and in Oregon and Idaho.¹³ In general, Canadian ocean fisheries in northern British Columbia and off of the West Coast of Vancouver Island catch twice as many Chinook as Alaska ocean fisheries.¹⁴

Annex IV to the Treaty governs Treaty Chinook fisheries management with the objective of providing healthy, productive Chinook populations that support sustainable fisheries, other social, economic and cultural benefits and ecosystem benefits for multiple species.¹⁵ The U.S. and Canada share a comprehensive, coordinated program that uses science-based management to allow for sustainable, targeted harvests of natural and hatchery produced Chinook stocks based on abundance.¹⁶ Scientific teams evaluate and report annually on harvests, exploitation rates, escapement objectives and productivity trends for all stocks.¹⁷ They develop abundance indices each year, including the index used to set the Alaska fishery pre-season catch limit each year.¹⁸

Treaty management measures sustain or recover and protect different Chinook stocks and respond to changing environmental conditions identified through monitoring of stock abundances and changes in distribution or marine survival rates.¹⁹ Many Chinook stocks managed pursuant to the Treaty are healthy and show long-term positive productivity trends.²⁰ The Treaty recognizes and provides for stocks that have conservation concerns caused by the long-term cumulative effects of chronic habitat degradation.²¹ Fishery managers work to preserve Chinook biodiversity and conserve, protect and rebuild those stocks.²²

NMFS is responsible for analyzing the impacts of ocean fisheries on at-risk species. After listing a number of Chinook populations under the Endangered Species Act during the 1990s, NMFS prepared a Biological Opinion, or “BiOp” focused on four Chinook populations (Evolutionarily Significant Units, or ESUs) most frequently harvested in the ocean fisheries managed under the Pacific Salmon Treaty.²³ The first BiOp concluded that the fisheries would not jeopardize the listed Chinook species.²⁴ In 2008 the agency prepared another BiOp evaluating changes to the fisheries under the proposed 2009 Treaty agreement.²⁵ The 2008 BiOp also considered effects to the Southern Resident orcas and concluded that the fisheries would not jeopardize the orcas or harm their critical habitat.²⁶ The 2009 Treaty agreement cut Southeast Alaska and some Canadian Chinook fisheries by 15 and 30 percent, respectively.²⁷ The most recent 2019 Treaty reduced Southeast Alaska’s catch by another 7.5 percent and the West Coast of Vancouver Island fishery by another 12.5 percent.²⁸

1.2 The Wild Fish Conservancy's lawsuit

NMFS prepared a new analysis of the Southeast Alaska salmon fisheries following adoption of the 2019-2028 Pacific Salmon Treaty Agreement and an associated conservation program. One component of that program would increase hatchery Chinook production, and thus Southern Resident orca prey availability, by four to five percent in their seasonal foraging areas.²⁹ The new BiOp evaluated the fisheries and a conservation program intended to benefit Puget Sound Chinook and Southern Resident orcas.³⁰ The BiOp concluded that Alaska salmon fisheries as managed under the Pacific Salmon Treaty would neither harm the orcas nor several at-risk Chinook stocks.³¹

A Washington State non-profit corporation, the Wild Fish Conservancy, sued NMFS, alleging that the analysis in the BiOp violated U.S. environmental laws. The Wild Fish Conservancy argued that NMFS failed to fully describe how it would fund and implement the conservation program and further that NMFS needed to analyze the impacts of additional hatchery releases on at-risk Chinook populations.³² The court agreed, and ruled that NMFS would need to develop a more specific conservation plan with clear deadlines and prepare additional analysis under the National Environmental Policy Act (NEPA).³³

The court held a hearing in October 2022 after briefing by all parties on the appropriate remedy for the case and has not yet issued a final decision regarding whether or not to vacate the BiOp. NMFS has requested that the court remand the BiOp and Incidental Take Statement to the agency to undertake further analysis without vacating any portion of those documents.³⁴ The court's ruling did not change NMFS' conclusions regarding the low impacts of the Southeast Alaska troll fishery. The agency's most recent filings in the case recognize that troll fishery impacts on Chinook stocks of importance to the Southern Resident orcas are small and will not jeopardize their survival or recovery.³⁵ Indeed, NMFS successfully implemented the prey increase program as anticipated in the BiOp, releasing more than 19 million juvenile Chinook in 2022.³⁶ NMFS staff in charge of orca recovery and Chinook enhancement have explained the vacating the BiOp will be harmful rather than beneficial to the orcas in large part because of the successful salmon enhancement program.³⁷

1.3 Southern Resident orca population trends and range

There are ten orca populations in the northeastern Pacific Ocean: four resident populations, five transients and one offshore population.³⁸ These populations neither interact nor interbreed with one another.³⁹ They also have very different and specialized fisheries - residents are piscivorous (fish eaters); transients eat harbor seals and other marine mammals and offshore orcas mostly eat sharks.⁴⁰ Resident populations have known home ranges but travel considerable distances at times.⁴¹ Southern Resident orcas are the southernmost of the northeastern Pacific piscivorous populations.⁴²

The largest known Southern Resident population size was 96 orcas in 1967.⁴³ Between 1962 and 1974, demand from aquariums and marine parks incentivized the formation of orca capture companies in the Pacific Northwest that

took 68 orcas – mostly Southern Residents.⁴⁴ The population dropped to its lowest level, 67 orcas, by 1971.⁴⁵ The population then fluctuated.⁴⁶ Growth occurred at normal rates during the late 1980s and peaked at 98 orcas in 1995 before a 20 percent decline from 1996-2001.⁴⁷ The decline led to the listing of the species as endangered in both Canada and the U.S.⁴⁸ The causes of that decline are uncertain; most scientists attribute it to combination of factors, including the small size of the population, contaminants, vessel traffic disturbances and reduced access to prey.⁴⁹ By 2010 the population rebounded to 86 orcas.⁵⁰ Another decline then occurred after 2010 when the population dropped to 74 by 2018, the lowest level since the late 1980s.⁵¹

The U.S. and Canada designated critical habitat for Southern Resident orcas throughout the "Salish Sea" which contains the Strait of Juan de Fuca, Puget Sound and Georgia Strait.⁵² Southern Resident orcas move through the Salish Sea and outer Washington coast seasonally in pursuit of prey and particularly to areas where salmon congregate in the late stages of making final migration to natal rivers.⁵³ Most of the Chinook they eat originate from the Columbia River and rivers flowing into the Salish Sea.⁵⁴ In the early spring, they commonly forage for Columbia and upper Fraser River spring run Chinook in western Juan de Fuca Strait and off the coasts of southern Vancouver Island and northern Washington state.⁵⁵ They spend most of May through October in the Straits of Georgia and Juan de Fuca, and Puget Sound.⁵⁶ By June, they occur mostly in the southern Salish Sea, targeting summer and fall Chinook runs migrating to rivers that flow into the Salish Sea.⁵⁷ They typically concentrate in specific areas, particularly the San Juan Islands.⁵⁸ In recent years they are spending more time at the western portion of their summer range near the southern end of Vancouver Island.⁵⁹ Beginning in September the Southern Resident orcas move throughout Puget Sound when returning coho and chum runs salmon comprise an increasing proportion of their diet - up to half their food.⁶⁰

Winter distribution and diet differs from summer.⁶¹ The proportion of Chinook salmon in their diet decreases in fall and winter.⁶² Southern Resident orcas mostly eat chum when in Puget Sound between October and December but there is little available diet data for other areas.⁶³ After October the orcas leave the Salish Sea and move to the outer coasts of Washington, Oregon and southern Vancouver Island, sometimes moving as far south as central California.⁶⁴ During this time they eat groundfish such as ling cod, dover sole and halibut but considerable uncertainty remains regarding their winter diet because of insufficient data.⁶⁵ The mouth of the Columbia River and Westport are favorite fishing spots in March and April during the peak return time for Columbia River spring Chinook.⁶⁶

Different salmon stocks may be more important in some years than others and the importance of specific stocks to Southern Resident orca diet changes over time.⁶⁷ The overall coast-wide Chinook abundance is more important than smaller aggregations or specific stocks.⁶⁸ In recent years, the Southern Resident orcas are spending less time in the Salish Sea, and consuming a more diverse range of Chinook stocks in other areas.⁶⁹

1.4 Current threats to the Southern Resident Orca: pollution, people, traffic, marine mammals and Chinook habitat loss

The Southern Resident orca is one of the most intensively studied marine mammals, and the most studied resident orca population in the world.⁷⁰ Numerous studies identify multiple and interacting causes of downward population fluctuations including high contaminant concentrations increase disturbances from vessel traffic, noise pollution, and commercial and recreational whale watchers, the small population size, and the effects of traffic, noise pollution, and orca observers on orcas seeking to capture salmon.⁷¹ Current research focuses on habitat loss, vessel traffic and contaminants.⁷² Researchers have found it challenging to assess which threats are most significant.⁷³ Researcher M. Scott Taylor of the University of Calgary explains that:

...no research has been able to quantify the impact of any one (or combination) of channels given the extreme difficulty of observing and then measuring potential causal effects on population that ranges over thousands of square miles of habitat and is, for the majority of the time, below the surface. Despite

literally tens of millions of dollars of research, the debate over what to do with or for, the Southern Resident is going nowhere fast.⁷⁴

Salmon abundance has varied considerably since 1980 and does not explain the long-term decline in the Southern Resident orca population.⁷⁵ Southern Resident and Northern resident orca populations grew at similar rates of nearly three percent from 1974-1987.⁷⁶ During the mid-1990s, Northern Resident and Southern Resident orca populations declined by seven and eighteen percent, respectively, coinciding with low Chinook abundance throughout the Pacific coast.⁷⁷ But the Southern Resident population continued to shrink even with extended, positive periods of higher Chinook abundance after 2000.⁷⁸ Meanwhile, the Northern Resident orca population again increased after 2000, casting considerable doubt on the theory that Chinook abundance is a sole or even primary driver of the Southern Resident orca population decline.⁷⁹

Numerous factors have degraded Southern Resident orca foraging habitat in the Salish Sea and the various habitats used by Chinook salmon for spawning, foraging and rearing.⁸⁰ Since 1970 there has been a dramatic increase in human population, development and industrialization.⁸¹ These changes have impacted the Southern Resident orcas in various ways that have reduced their population productivity while the Northern Resident orcas have thrived by avoiding the Salish Sea.

The Salish Sea has become one of the busiest areas of marine traffic in the world.⁸² The traffic generated unprecedented levels of acoustic disturbances for the Southern Resident orcas.⁸³ Noise pollution is prevalent, intense and long lasting and interferes with both orca communication and foraging which rely on the production of sounds and ability to detect echoes.⁸⁴ The noise pollution likely has a significant impact on population productivity and may have been a significant factor in the population decline during the mid-1990s by reducing foraging efficiency, particularly for pregnant females during the summer.⁸⁵ The commercial orca observing fleet in the Salish Sea increased from 20 boats in the 1980s to 100 by 2017.⁸⁶ Other vessels normally used for other charter or recreational purposes also concentrate around the orcas in key foraging areas.⁸⁷ Orca observers have likely caused significant disturbance to orca foraging, reducing the accessibility of Chinook salmon.

Industrial and urban development of Puget Sound and southern British Columbia exposed Southern Resident orcas to multiple contaminants that enter the marine environment through various pathways, notably PCBs (polychlorinated biphenyls used as lubricants in electrical transformers), PBDEs (polybrominated diphenyl ethers used as flame retardants) and DDT (dichlorodiphenyltrichloroethane once used in agriculture as an insecticide).⁸⁸ These contaminants persist at high levels today in the Salish Sea marine environment and enter the aquatic food web and bioaccumulate up the food chain, becoming very concentrated in long-lived apex predators such as the orcas.⁸⁹ As a result, Southern resident orcas are among the world's most contaminated marine mammals, particularly with high concentrations of PCBs, DDTs, PBDEs that routinely exceed toxicity thresholds for marine mammals.⁹⁰

Population growth and industrial development have degraded spawning and rearing habitat for the orcas preferred prey, salmon, throughout Puget Sound and southern British Columbia.⁹¹ Various land uses – whether for urbanization, logging, farming or other developments, have significantly degraded habitat conditions throughout regional watersheds, wetlands and estuaries.⁹² Impacts include reduced watershed connectivity, quality, complexity and function, loss of riparian areas, disturbances to stream substrates, impaired fish passage conditions and losses of genetic diversity.⁹³ Developments near floodplains and shorelines converted salmon habitat to residential and industrial areas and added contaminants to aquatic ecosystems through run-off from roads.⁹⁴ Dams and flood control infrastructure have cut off significant portions of the rivers that once provided habitat for Chinook and other salmon; new projects may continue to increase these impacts.⁹⁵ There is a smaller amount of functioning nearshore and estuarine habitat for salmon rearing and migration after decades of dredging and filling estuarine areas, altering marine shorelines, causing a loss of habitat features critical for salmon, particularly juveniles.⁹⁶ These impacts have reduced ecosystem resilience, increasing salmon susceptibility to habitat disturbances such as floods, landslides and droughts.⁹⁷

The habitat loss continues to reduce carrying capacity for spawning salmon in Puget Sound rivers, causing ongoing declines in Chinook abundance.⁹⁸ While there have been efforts to improve habitat, regulate whale watchers and other measures, the increasing human population undermines both Chinook and Southern Resident orca population recovery.⁹⁹ The Southern Resident orca population continues to fluctuate at lower levels even though cuts to ocean fisheries such as those imposed through the Pacific Salmon Treaty process have increased the abundance of Chinook returning to terminal areas (near their freshwater streams) by over a third.¹⁰⁰ The inability to improve conditions for the Southern Resident orcas through changes to ocean fishery management is why fishery managers from both Canada and the U.S. emphasize actions to reduce disturbances to the orcas rather than broad scale coast-wide reductions in fisheries.¹⁰¹

Non-anthropogenic factors also affect the distribution and accessibility of Chinook. Marine mammal predation on Chinook, particularly by pinnipeds in the Salish Sea and Columbia River, vastly exceeds commercial fishery harvests. The Northern Resident population grew from 120 orcas in individuals in 1975 to over 300 orcas today and is still steadily growing, potentially consuming nearly a million more Chinook salmon each year than they did fifty years ago.¹⁰² Over the same time period the harbor seal population increased 700 percent in Georgia Strait and Puget Sound, accompanied by significant growth in the coastal sea lion population.¹⁰³ Pinnipeds consume twice as many Chinook salmon as orcas and six times as many as harvested by all coastwide and freshwater fisheries.¹⁰⁴

2. Salish Sea Traffic and Toxins

2.1 Salish Sea Vessel Traffic impacts to orcas: noise pollution and orca watching

Vessel traffic is likely to increase in the Salish Sea which is already one of the busiest seaways in the Pacific.¹⁰⁵ Existing high levels of vessel traffic degrade Southern Resident orca habitat through their presence, activity and chronic noise pollution.¹⁰⁶ The role of rising vessel traffic impacts on the decline of the Southern Resident orca is now a primary hypothesis explaining the failure of the Southern Resident orca population to recover.¹⁰⁷ It is likely that the traffic has had significantly influenced recent declines by increasing collision risks by reducing or eliminating foraging success through noise pollution and other disturbances.¹⁰⁸

The west side of San Juan Island in Haro Strait is the orca's most important summer foraging habitat.¹⁰⁹ Today, nineteen large ships transit adjacent to or in orca critical habitat in Haro Strait near San Juan Island each day, or nearly one large ship nearly every hour all year.¹¹⁰ The globalization of the economy significantly increased the volume and variety of vessels transiting the Salish Sea to or from ports outside North America beginning in the late 1990s.¹¹¹ Most of the vessels driving the increase are container ships which generate the loudest sounds.¹¹² Between 1998 and 2019 the number of large vessel trips increased by 46 percent, for a total of 175,000 more trips.¹¹³ Vessels travel 1.8 million miles in orca critical habitat each year, an increase of half a million miles a year compared to the late 20th century.¹¹⁴ The massive underwater noise generated by these traffic increases is chronic and has degraded habitat used for foraging, socializing and reproduction, and is likely a major limiting factor for the population.¹¹⁵

The orcas are also a "principal target species" for a rapidly growing marine mammal watching industry.¹¹⁶ San Juan Island is one of the most popular recreational boating and orca watching destinations in the U.S. and Canada.¹¹⁷ Orcas react to obstruction or disturbances from vessels by swimming faster and further, changing travel direction or diving differently.¹¹⁸ These impacts, along with acoustic disturbances, affect communication, reduce foraging time by at least several hours a day and increase energy expenditures.¹¹⁹ The impacts of noise pollution are so large that some researchers believe it would require unprecedented abundances of salmon to offset the energetic costs incurred by orcas.

2.1.1 Noise Pollution impacts

The first study to fully examine the relationship between acoustic disturbances to the Southern Resident orcas identified noise pollution as a likely factor in the 20 percent population decline between 1996 and 2001.¹²⁰ Ongoing research emphasizes the impacts of underwater noise pollution because it impairs foraging and communication.¹²¹ Significant and long lasting vessel noise spreads through propeller cavitation and engines.¹²² Large commercial vessels, ferries, tugboats and container ships and smaller recreational vessels emit noises throughout the Salish Sea via propeller cavitation and engines.¹²³ Additional sources of underwater noise include military sonar, seismic surveys and marine construction.¹²⁴ Both high and low frequencies are impactful.¹²⁵ Widely used low frequency depth sounders and sonars also interfere with the orcas' ability to navigate and capture prey.¹²⁶ High frequencies generated by large ship propellers are unavoidable due the overlap between Southern Resident orca foraging areas and shipping lanes.¹²⁷

Hearing is critical for orcas because sound travels much farther underwater than light.¹²⁸ The noise pollution occurs at the same frequencies used by orcas for both communication and echolocation.¹²⁹ Echolocation is the act of producing sound and using the resulting echo to perceive surroundings and is the primary means used by orcas for navigation and to locate salmon or other prey.¹³⁰ Orcas also rely on quieter acoustic habitat to communicate through calls, clicks and whistles.¹³¹ Noise pollution impairs echolocation and can temporarily or permanently damage hearing sensitivity.¹³²

Smaller whale watching vessels (<65') and recreational vessels also produce intermittent noise that makes it more difficult for orcas to find and capture fish.¹³³ They spend less time foraging in the presence of these vessels, reducing amount of prey captured.¹³⁴ Other recreational vessels also are increasing noise pollution levels.¹³⁵ This noise is difficult to mitigate because high speeds increase the intensity of the noise but slower speeds keep the noise around for longer periods of time.¹³⁶

There are numerous documented responsive behavioral changes such as altering swimming paths, diving rates and surface activity, increasing travel time and increasing calling amplitude.¹³⁷ The additional energy expenditures and lost foraging opportunities are most troubling in years when Salish Sea Chinook salmon stocks are at lower abundances and/or during spring and summer months when pregnancies begin.¹³⁸ The increased traffic likely has a significant impact on population productivity, lower birth rates and increasing mortality rates.¹³⁹

2.1.2 Orca observing in critical habitat

The number of tour boats focused on observing the Southern Resident orcas increased rapidly during the mid-1990s.¹⁴⁰ The number of hours per day and number of days per year also increased.¹⁴¹ By 2001, orca observers were operating from April through October: six months per year, and 12 hours per day.¹⁴² The substantial increase in commercial orca watching vessels correlates with the rapid population decline during the late 1990s.¹⁴³ Because of this correlation, some researchers have identified a need to reduce the fleet to pre 1990s levels.¹⁴⁴

By 2015, the orca watching fleet had quintupled in size relative to the 1980s, to nearly 100 vessels accompanied by another approximately 150 multi-purpose charter vessels.¹⁴⁵ There has also been a massive increase in the numbers of kayakers in these areas.¹⁴⁶ Other recreational and research vessels, cruise ships, fishing vessels and freight ships pass by throughout the day, causing a cumulative effect.¹⁴⁷

An average of 15 to 22 vessels and sometimes over fifty vessels concentrate within a half mile of the orcas during the day in their most important foraging habitat.¹⁴⁸ Violations of regulations and guidelines are chronic – over four incidents per hour.¹⁴⁹ Vessels approach within 200 yards or park in the orca's pathways.¹⁵⁰ Private boaters in particular are frequent violators.¹⁵¹ The number of incidents or violations, particularly intrusions of foraging areas or impediments to movements, rose from 398 in 1998 to 2,621 in 2012.¹⁵² Efforts to reduce impacts have occurred but the disturbances continue.¹⁵³

Orca observers impact the orca's ability to capture prey.¹⁵⁴ Multiple studies show feeding disruptions when vessels are around and other energy costs associated with vessel avoidance.¹⁵⁵ The orcas spend more time swimming than resting, increasing energy expenditures by thirteen percent.¹⁵⁶ Noise pollution alone produced by orca observing vessels can reduce the accessibility to salmon by as much as 80 percent, adding to the impacts of noise from other traffic off San Juan Island.¹⁵⁷ Even the presence of kayakers can reduce foraging time by 20 percent, reducing prey intake and increasing energy expenditures.¹⁵⁸

The concentration of orca observing vessels and their noise may be displacing the Southern Resident orcas.¹⁵⁹ The obstruction of accessibility to prey and energy expenditure costs may be affecting population growth and increasing mortality.¹⁶⁰ There is a clear correlation between the intensity of orca observation and changes in Southern Resident population size, leading researchers focused on impacts from orca observers to suspect that disturbances from these vessels, particularly their impacts on prey accessibility, may be the most important factor in the population's decline.¹⁶¹

2.1.3 Vessel collisions

Vessel strikes are likely one of the multiple mechanisms contributing to the population decline - collisions occur occasionally, causing injury or death.¹⁶² The extent of vessel strikes is unknown as very few deceased killer whales are found and necropsied.¹⁶³ Any Southern Resident orca killed by a vessel strike is a significant loss because of the small population size.¹⁶⁴ A 2020 analysis of vessel strikes explained that:

Historically, vessel strike has not been considered an important anthropogenic cause of morbidity or mortality in killer whales; however, based on findings from this pathology review and other observations of vessel strike, this risk factor may be an underappreciated but important threat to the population status of endangered killer whales in the eastern Pacific.¹⁶⁵

Vessel strikes are a particular threat for Southern Resident orcas because of their proximity to population centers and shipping lanes.¹⁶⁶ The amount of vessel traffic in the Salish Sea increases the risk of vessel strikes or orcas being drawn into ship propellers.¹⁶⁷ Recent studies of stranded orcas throughout the northeastern Pacific are identifying vessel strikes as a significant and frequently occurring cause of death.¹⁶⁸ Between 1995 and 2005 in British Columbia there were five non-fatal and two fatal strikes.¹⁶⁹ Two of the non-fatal strikes caused serious injury and one of the injured orcas died a year later.¹⁷⁰ A recent study of stranded orcas throughout the northeastern Pacific identified six suffering traumatic injuries likely caused by vessel strikes, including two Southern Resident orcas.¹⁷¹ Recreational vessels speeding toward or away from the orcas also increase risks of vessel strikes.¹⁷²

Because of the various risks – reduced accessibility to salmon, collisions, disturbances and increased energetic costs, researchers are identifying a need to minimize the impacts of vessel traffic.¹⁷³ It is the one threat to Southern Resident orcas that further regulation can mitigate expeditiously.¹⁷⁴ Regulators could reduce the number of orca observing vessels, increase spatial and temporal closures, and, as recommended by Washington State's Southern Resident Orca Task Force, prohibit orca viewing for three to five years.¹⁷⁵ For larger vessels there may be a need to alter shipping lanes further away from critical habitat, more carefully control vessel traffic to avoid long periods of overlap, change ship designs and reduce speeds below thirteen knots.¹⁷⁶ Indeed, there were observations of increased orca foraging following efforts in British Columbia during the summer of 2019 to slow down vessel traffic.¹⁷⁷

2.1.4 Oil Spill risks

Washington State is a shipping and refining hub and major oil spills occur at times.¹⁷⁸ The Southern Resident orca population is highly vulnerable to a major oil spill because their primary foraging areas overlap with international shipping lanes that have the highest oil spill risks in the Salish Sea.¹⁷⁹ Although improved prevention measures have reduced the number of spills, large oil spill risks remain.¹⁸⁰ Additional growth in container ship traffic as well as tanker

traffic from increased oil and natural gas production in interior North America and coastal British Columbia are likely to increase major oil spill risks.¹⁸¹

Marine mammals can handle some pollution from oil spills but intense or persistent exposure is severely toxic.¹⁸² Orcas do not avoid oil spills and can intake oil or vapors at the surface or while feeding.¹⁸³ The Exxon Valdez spill caused an unprecedented loss of up to 20 orcas suspected to have inhaled too many petroleum vapors.¹⁸⁴ As with other pollutants, oil spills also can be destructive to prey populations.¹⁸⁵ A major oil spill in key Southern Resident orca foraging areas could cover between roughly one to three-fourths their critical habitat and a catastrophic spill of two to four million gallons would be fatal to between nine and 36 orcas.¹⁸⁶

2.2 Salish Sea toxic pollution

One of the main threats to Southern Resident orca survival - and salmon population recovery - is the high toxic contaminant burden borne by both species.¹⁸⁷ Southern Resident orcas forage in some of the most urbanized and industrialized areas on the Pacific west coast, including Puget Sound, a toxic contaminant "hot spot."¹⁸⁸ Contaminated forage fish cycle toxic chemicals throughout the food web which bioaccumulate in salmon and orcas.¹⁸⁹ Orcas and multiple salmon species, particularly wild Chinook, species constantly consume contaminant cocktails comprised of PCBs, PBDEs, DDT, PAHs (polycyclic aromatic hydrocarbons found in stormwater run-off from roadways) and other pesticides, herbicides, trace metals, and contaminants of emerging concern.¹⁹⁰

The contaminants enter the marine environment through the atmosphere, run-off, spills and direct discharge.¹⁹¹ PCBs are entering the marine environment more than forty years after being banned in the U.S. and levels have remained high in orcas since the 1990s.¹⁹² In parts of Puget Sound PCB levels in the food web are as high as they were twenty years ago.¹⁹³ DDT continues to enter the marine environment through terrestrial run off and persists in aquatic sediments throughout the Columbia River Basin and central California even though banned over forty years ago.¹⁹⁴ Many consumer products contain PBDEs: furniture, mattresses, hard plastics such as television casings and computers, gym mats and car seats.¹⁹⁵ They concentrate in residential dust and end up in Puget Sound through wastewater discharge.¹⁹⁶ Although the use of PBDEs stopped in North America in 2005, the chemical is so prevalent in homes and offices that it will continue to enter the marine food web at potentially increasing levels for years.¹⁹⁷

PCBs and PBDEs are the top two contaminants detected in sediments throughout the Salish Sea.¹⁹⁸ The highest concentrations are near large urban areas, harbors, municipal wastewater treatment plants, landfills and industrial areas such as ship building and repair facilities, pulp and paper mills and paper recycling plants.¹⁹⁹ PCBs and PBDEs commonly occur in the orcas' designated critical habitat at levels that exceed regulatory thresholds for marine mammals.²⁰⁰

The most significant source of Southern Resident orca exposure to contaminants is their prey.²⁰¹ The orcas frequently feed on fall run Chinook and coho from rivers originating in Puget Sound and other industrialized portions of the Salish Sea.²⁰² These particular runs spend extended time rearing in a marine environment where they accumulate high concentrations of PCBs and PBDEs via contaminated forage fish such as herring and sand lance.²⁰³ Maturing Chinook from Puget Sound have 3 to 5 times higher PCB levels than Chinook from other portions of the Pacific Coast.²⁰⁴

As stated above, Southern resident orcas are among the world's most contaminated marine mammals with concentrations of PCBs, DDTs and PBDEs routinely exceeding toxicity thresholds for marine mammals.²⁰⁵ They have some of the highest PCB concentrations of any marine mammal on the planet, and higher PBDE concentrations than all northeastern Pacific orca populations and worldwide whale populations.²⁰⁶ Both contaminants bioaccumulate, meaning their concentration in orcas increases over time as they continually consume toxic prey.²⁰⁷

The contaminants accumulate in orca's fatty tissues – *i.e.* their blubber.²⁰⁸ Female orcas transfer contaminants to calves during pregnancy.²⁰⁹ Calves then absorb even more contaminants during nursing when the contaminants break down and end up in milk.²¹⁰ As a result, there are lower contaminant concentrations found in lactating mothers, but higher concentrations in calves.²¹¹ Concentrations in calves can be four to ten times as high than their mothers,

particularly the first-born calf.²¹² Juveniles have higher PBDE concentrations than adults which can exceed tolerable effects thresholds for marine mammals by 200 to 350 percent.²¹³ In general males also have higher concentrations than females.²¹⁴ For all orcas, nutritional stress caused, for example, by noise pollution and orca observer vessels, worsens the effects because when orcas draw on blubber reserves for energy, there is a release of stored contaminants into the full body, impairing immune systems.²¹⁵

The exposure to high contaminant concentrations at critical developmental stages and limited capacity to eliminate them makes calves and juvenile orcas particularly vulnerable.²¹⁶ Calves assimilate contaminants during early development stages when the effects to hormones such as endocrine disruption can have severe consequences by disrupting growth and development.²¹⁷ Impaired development can include cognitive development and memory, potentially affecting future foraging capacity.²¹⁸ Impacts can include delayed sexual maturity and reduced chances of future reproductive success.²¹⁹ Contaminants also may increase the likelihood of mortality prior to or shortly after birth.²²⁰ During the 2015 "baby boom" of nine documented births in 13 months, only five calves survived.²²¹

The contaminant concentrations cause chronic health effects.²²² Exposure to multiple contaminants is synergistic, multiplying the health risks.²²³ PCBs can cause cancer and skeletal abnormalities.²²⁴ PCBs and DDTs cause reproductive impairment.²²⁵ All three chemicals interfere with the immune system and hormones – whether through endocrine disruption or thyroid effects.²²⁶ Sublethal and lethal effects include premature or delayed physical or sexual maturity, reduced fertility, failed pregnancies and calf mortality.²²⁷ Their compromised immune systems shorten their life expectancy by increasing susceptibility to infectious diseases that are large sources of chronic illnesses, or mortality in marine mammals, causing as many as a third of marine mammal deaths.²²⁸

Southern Resident orcas mature differently, are less fertile and produce fewer healthy surviving calves than Northern and Alaska Resident orcas.²²⁹ Scientists have not identified a clear cause for the disparity.²³⁰ However, both Northern and Alaska Resident orcas have lower concentrations of contaminants that affect reproductive success.²³¹ Male Southern Resident orcas have PCB concentrations four times as high as male Northern Resident orcas.²³² Current concentrations create twice the risk of population decline for Southern Resident compared to unexposed populations.²³³ PCB exposures alone can be a factor in a population collapse even independently of other factors such as impacts of noise pollution and vessels on prey accessibility.²³⁴ Some researchers project that only orca populations in less contaminated waters in Antarctica and the Arctic are likely to sustain growth, while others foraging in contaminated waters are at high risk of population collapse.²³⁵

These same contaminants - and other pollutants - are also major contributors to Chinook population declines.²³⁶ Some Chinook are residents that spend their entire marine life in the Salish Sea instead of feeding offshore.²³⁷ Contaminant exposure reduces growth and survival rates and increases susceptibility to disease.²³⁸ A third of juvenile Chinook sampled from urbanized estuaries in Puget Sound and migrating near urban areas in the Columbia River Basin have PCB concentrations above adverse-effects thresholds.²³⁹ These juvenile salmon are nearly twice as likely to die as salmon from uncontaminated estuaries.²⁴⁰ High PBDE concentrations associated with urban river systems similarly increase juvenile Chinook susceptibility to disease and alter growth and development.²⁴¹

Urban stormwater runoff is another major source of pollution that degrades water quality with toxic effects to fish that range from reproductive impairment to death.²⁴² Polycyclic aromatic hydrocarbons (PAHs) come from petroleum products that enter the aquatic environment directly through oil spills or indirectly from stormwater runoff.²⁴³ PAHs are not as harmful to orcas as PBDEs, DDTs and PCBs but are toxic to Chinook salmon, slowing growth and increasing susceptibility to disease.²⁴⁴ Juvenile Chinook ingest PAHs primarily through consumption of forage fish such as herring in urban estuaries in Puget Sound and Columbia River.²⁴⁵

Researchers have been studying "urban runoff mortality syndrome" for two decades because of severe impacts to coho salmon.²⁴⁶ Coho returning to urban watersheds in the Pacific Northwest frequently die within four hours of exposure to stormwater run-off.²⁴⁷ Mortality rates range from half to over 90 percent of an entire run.²⁴⁸ The

susceptibility is even higher during storm events with cumulative mortality rates of 92 percent to 100 percent.²⁴⁹ These high rates of pre-spawning mortality occur throughout Puget Sound.²⁵⁰

Road run-off contaminants cause the die-offs, which usually occur during the fall following rain events in urban areas with high road densities.²⁵¹ While vehicles also leak other contaminants, chemical concentrations from tire wear particles (TWPs) are the most prevalent.²⁵² Nearly all motor vehicle tires contain a chemical called 6PPD (N-(1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine) that protects them against degradation and cracking.²⁵³ As treads deteriorate over time, small rubber particles interact with oxidants, converting 6PPD to 6PPD-quinone which is the primary cause of urban runoff mortality phenomenon.²⁵⁴ 6PPD-quinone concentrations, even at short-term exposures, are chronically lethal to adult and juvenile coho and also kill Chinook at lower rates, with unknown sublethal effects.²⁵⁵

There are many factors causing coho populations to decline, including loss and degradation of physical spawning and rearing habitat.²⁵⁶ The high mortality rates are a significant immediate and long-term threat, particularly in lowland areas like the Puget Sound and Columbia River basins where road density and motor vehicle traffic density are highest.²⁵⁷ Because of the high mortality rates in watersheds with heavily trafficked roadways, chemical habitat degradation may extinguish wild local coho populations within decades.²⁵⁸ Chinook are also vulnerable to urban runoff mortality syndrome.²⁵⁹ While cohos are the most susceptible salmon species, Chinook cumulative mortality rates can reach thirteen percent.²⁶⁰ Chinook have a longer survival time after 6PPD quinone exposure, dying one or two days later.²⁶¹ Sublethal impacts to Chinook are unknown but potentially significant.²⁶²

There is a need to reduce contaminant inputs to Southern Resident orcas, their prey and forage fish.²⁶³ Regulations phasing out some chemicals and reducing wastewater contaminant load of others have not prevented the ongoing transport of contaminants to the aquatic food web.²⁶⁴ Existing regulations allow for continued discharges of high concentration of toxic chemicals from both stormwater and wastewater in industrial and high traffic areas.²⁶⁵ There are projected increases in pollution from new government and private sources and current contaminated sites.²⁶⁶ The continued failure to remove PBDEs from wastewater treatment plants through additional filtering is a significant concern.²⁶⁷ Additional clean-up of sources beyond current slow and underfunded efforts will be necessary.²⁶⁸

3. Increases in predation

Southern Resident orcas are the southernmost orca population that preys on Chinook in the northeastern Pacific.²⁶⁹ It is the only northeastern Pacific orca population showing a declining trend.²⁷⁰ The growth of other resident orca and pinniped populations has had increasing impacts on coastal Chinook abundance.²⁷¹ Combined orca and pinniped Chinook consumption has nearly tripled since the mid-1970s.²⁷² The overall abundance of resident orcas has continuously increased since the 1970s.²⁷³ Northern and Alaska Resident populations levels have at least doubled over the last 40 years, growing to a total resident population of 2,300 orcas in the Northeast Pacific.²⁷⁴ The Northern Resident population grew from 120 to more than 250 orcas between 1975 and 2011.²⁷⁵ Current population estimates range from 302 to 330 orcas and the population is still steadily growing.²⁷⁶

During the 20th century, both Northern and Southern resident populations responded in similar ways to fluctuations in Chinook abundance.²⁷⁷ Population growth and declines occurred during the same time periods.²⁷⁸ However, declines in the Southern Resident population were disproportionately higher, particularly during the late 1990s and early 2000s.²⁷⁹ Over time, Southern Resident orcas have produced fewer offspring, had shorter life expectancies and higher mortality rates.²⁸⁰ Nearly two decades have passed since Canada and U.S. began protecting them as a species at risk but the population has not recovered, instead declining to 73 orcas in 2021 – the smallest population since 1984.²⁸¹

Southern Resident orcas compete for food and space with the two other resident populations, which may be limiting population recovery.²⁸² In particular, they overlap with Northern Residents and compete for prey, even if at some times they forage in different areas during summer months.²⁸³ Recent research shows both populations currently

overlap at times during the summer at Swiftsure Bank, where Chinook bound for river systems that drain into the Salish Sea congregate at the southern tip of Vancouver Island.²⁸⁴ This area may be a primary summer foraging location for Southern Resident orcas when outside of the Salish Sea.²⁸⁵ In other words, both populations forage at the same time and in the same place for the same prey originating from the same rivers.²⁸⁶

Overall, the three resident orca populations consume between 1.6 and 2.3 million Chinook each year, exceeding human harvest in all marine, terminal and freshwater fisheries.²⁸⁷ Large increases in consumption by the growing Northern Resident population has had a much more significant influence on coastal Chinook abundance than human fisheries, particularly at lower abundance levels when orca predation may reduce Chinook marine survival rates to between thirty and forty percent.²⁸⁸ Recent research estimates that Southern Resident orcas consume between 190,000 and 260,000 Chinook each year, mostly between April and October.²⁸⁹

The Northern and Southern resident orca population trends began to diverge around the end of the 20th century. The Northern resident population declined between 1998 and 2001 and since has grown 2.9 percent each year since 2001.²⁹⁰ The Southern Resident orca population's most recent peak was 99 orcas in 1995 and the population size has since declined one percent annually.²⁹¹ The different population trends for Northern Resident and Southern Resident orcas undermine the theory that there is a direct causal relationship between salmon abundance and Southern Resident orca population productivity.²⁹² When prey availability limits a predator population, either a larger amount of prey or a lower number of predators will enable the predator population to grow because of increased per capita prey consumption.²⁹³ The different population responses to fluctuations in Chinook abundance indicate that other factors are driving Southern Resident orca population trends.²⁹⁴

In particular, habitat degradation in the Salish Sea may have exacerbated the impacts of competition for prey between a large growing population and a small diminishing population.²⁹⁵ Between 1970 and 2015, Chinook consumption by harbor seals and California and Steller sea lions increased over ninety percent and is likely limiting the number of Chinook available to Southern Resident orcas during years of lower abundance.²⁹⁶ The effect of pinniped predation on Chinook populations is severe.²⁹⁷ Pinnipeds eat twice as much Chinook salmon as the orcas and 6 times as much as harvested in commercial and recreational fisheries.²⁹⁸ Since the 1960s, the Georgia Strait seal population increased from 2,000 to 40,000 seals.²⁹⁹ There was a similar, 700 percent increase in the Puget Sound seal population.³⁰⁰ They congregate in areas such as the Hood Canal Bridge, which impedes salmon movements, and feast on Chinook and chum.³⁰¹ The harbor seals consume as many as 1,000 Chinook each day (as well other orca prey species such as coho and chum) and likely have a significant influence on Chinook populations.³⁰² A major recommendation of Washington State's Southern Resident Orca Task Force was to reduce harbor seals predation.³⁰³

Sea lion populations have also increased significantly.³⁰⁴ The number of sea lions occupying areas between Southeast Alaska and Mexico has increased from 80,000 during the 1970s to 260,000 today.³⁰⁵ Significant predation occurs in 145 river miles before the Bonneville Dam.³⁰⁶ The predation is one of the top three factors affecting Chinook stocks of particular importance to the orcas such as Upper Columbia River spring Chinook.³⁰⁷ Between 2010 and 2015, sources other than harvest caused the loss of an estimated 20 to 44 percent of spring Chinook originating above Bonneville - the 2015 estimated loss of 44 percent amounted to 224,000 spring Chinook.³⁰⁸

4. Marine Fishery Impacts and Southern Resident orca health

Despite the known impacts from predation, pollution, habitat loss and vessel traffic, mainstream news media frequently report that "a pod of orcas is starving to death" or "Orcas of the Pacific Northwest are Starving and Disappearing."³⁰⁹ While some years of higher Chinook abundance have correlated with higher orca population productivity, the correlations occurred only during two time periods at a coarse, coast-wide scale and are not necessarily causative.³¹⁰ The Columbia River in particular has had record Chinook returns over the past decade while the Southern Resident orca population declined.³¹¹ Broad correlations from the previous century that predated the large increase in

vessel traffic, growth of the orca observing industry and increasing contaminant concentrations simply do not inform relationships between Chinook fisheries and orca population trends in the way the Wild Fish Conservancy suggests in its media materials.³¹² Ongoing data collection and analysis has weakened the strength of these correlative relationships.³¹³

Lower numbers of Chinook may provide an overly simplified explanation for orcas observed in poor body condition and reduced productivity but there is very little evidence supporting the theory that occasional downward fluctuations in Chinook abundance are causing the orcas to starve or are even a main factor affecting the population.³¹⁴ Wildlife biologist Brad Hanson of NOAA's Northwest Fisheries Science Center started studying the Southern Resident orca declines 15 years ago.³¹⁵ In 2019, he explained that "I think there has been an effort to simplify the problem and so the default answer is the animals are starving. That's something in general people can easily wrap their heads around."³¹⁶

4.1 Southern Resident Chinook consumption and causes of nutritional stress

Nutritional stress occurs when a species does not obtain adequate energy and nutrients and when chronic can reduce individual body sizes and lower reproductive or survival rates in a population.³¹⁷ In 2011-2012, U.S. and Canadian fishery managers convened a scientific review panel and conducted a series of workshops to assess whether salmon fisheries were affecting Southern Resident orca population productivity.³¹⁸ The panel questioned the theory that fisheries impact Southern Resident orca population trends because of other, more significant factors: industrial hazards, increased vessel traffic and rising predation by other marine mammals.³¹⁹

Orcas from any population may show a poor body condition or experience nutritional stress for reasons other than reduced prey availability.³²⁰ There were few observations of malnourished Southern Resident orcas during the 1990s population decline, suggesting external disturbances, contaminants or disease were responsible for observations of some orcas in poor body condition.³²¹ Between 2005 and 2011 the only dead Southern Resident orca recovered died from a vessel strike.³²² There is no evidence since that time showing starvation as a cause of death.³²³ A recent study of stranded orcas throughout their range identified a number of orcas in poor body condition but only a few that were thin or emaciated.³²⁴ Causes of death varied and included disease, blunt force trauma, and accidental stranding.³²⁵

Scientists continue to question the theory that Chinook abundance drives Southern Resident orca population trends.³²⁶ University of Washington fisheries scientist Ray Hilborn, who chaired the 2012 expert panel, identifies the small population size as the primary problem.³²⁷ There is still a lack of data supporting the theory that low Chinook abundance is the main cause of the poor physical condition of some individual orcas.³²⁸ Two recent studies, both published in 2021 focused on the orca's diet and again found a shortage of evidence linking prey depletion with nutritional stress.³²⁹ The good physical condition of many Southern Resident orcas and absence of population-wide impacts suggests that factors other than a lack of food, such as individualized health issues, are causing nutritional stress in some Southern Resident orcas.³³⁰ Cases of nutritional stress and poor body condition occur throughout the multiple healthy orca populations inhabiting the northeastern Pacific that have plentiful available prey, including in Alaska and Hawaii.³³¹

Contaminants can cause higher rates of disease among Southern Resident orcas, making them too sick to eat.³³² High mortality rates also occurred during years of higher Chinook abundance, driven by factors unrelated to nutritional stress such as trauma or infection.³³³ Other underlying health conditions can cause a loss of appetite or inability to absorb nutrients.³³⁴ Wildlife biologist Hanson has observed this phenomenon when attempting to administer medicine contained in a Chinook salmon to a female orca that had no interest in eating.³³⁵ For these reasons, while scientists identify cases of nutritional stress, starvation is not a direct cause of highly publicized orca deaths.³³⁶

Because of the combination of other factors that reduce foraging success one problem for Southern Resident orcas may be the accessibility, rather than abundance, of Chinook.³³⁷ Even when fish are abundant, the orcas need to be able to forage for them.³³⁸ Injuries caused by or interactions with commercial vessel traffic or whale watchers impairs

the ability to catch or consume prey and disproportionately impacts pregnant or lactating females.³³⁹ Chinook densities have been relatively high in Southern Resident orca foraging areas in Juan de Fuca Strait during summer and four to six times as high as in Johnstone Strait, the key inland foraging area for Northern Resident orcas.³⁴⁰ The high prey density suggests that there is not a prey limitation during summer months but rather greater difficulty accessing prey because of chronic interference caused by intensive vessel presence and noise.³⁴¹ Reduced accessibility due to traffic is likely more consequential than previously considered because interference with foraging affects orca energy intake and expenditures, growth, survival and reproduction.³⁴²

4.2 Fishery interactions with Chinook stocks important to Southern Resident orcas

As explained in the preceding discussion, numerous habitat conditions have deteriorated for both Southern Resident orcas and their prey, Chinook, coho and chum salmon. The only major mitigation action taken occurring over the time period of the orcas' decline is substantial cuts to ocean harvest of healthy Chinook stocks to enable higher escapements of weaker stocks. Those sacrifices have not resulted in salmon or orca recovery because of ongoing failures to address more serious threats to salmon and orca populations associated with habitat loss, pollution and other human-driven population pressures.

By the 2000s, average annual coastal Chinook abundance from British Columbia to California had declined modestly relative to the 1980s.³⁴³ However, major cuts to ocean fishery harvests *increased* Chinook terminal run sizes (numbers of fish returning to rivers) and the number of Chinook available to Southern Resident orcas by over a third.³⁴⁴ Terminal run sizes of Salish Sea stocks originating in Canada increased between 38 percent and 100 percent and remained the same in Puget Sound.³⁴⁵

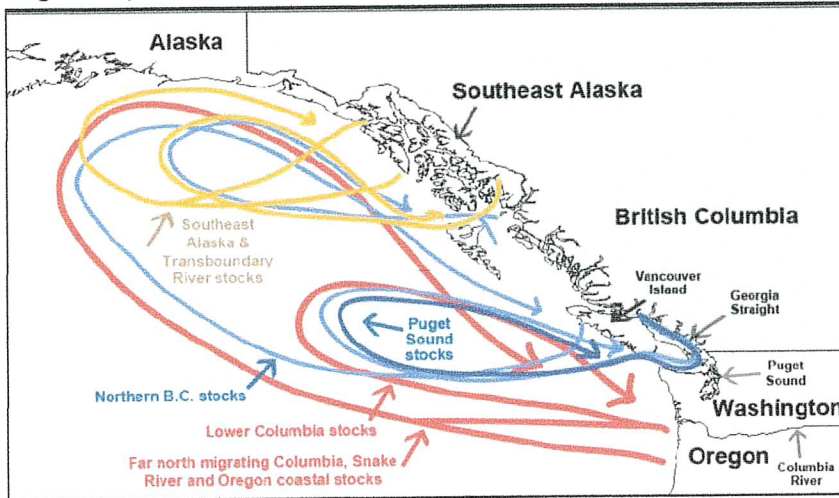
Because of lower ocean harvests, NMFS' 2012 expert review panel questioned whether additional reductions to Chinook harvest would meaningfully impact Southern Resident orcas.³⁴⁶ It was more likely that larger spatial scale changes in Chinook abundance had much greater influence over orca populations than any one fishery.³⁴⁷ In particular, increased terminal run sizes suggested factors other than Salish Sea summer Chinook abundance were driving orca population trends.³⁴⁸ The panel recognized studies correlating Chinook abundance and orca population trends but cautioned against theories that confuse correlation with cause.³⁴⁹

A subsequent analysis in 2013 reiterated that additional cuts to already low ocean fishery exploitation rates would be unlikely to help recover the Southern Resident orca population, particularly in light of increases in terminal run sizes of stocks targeted by the orcas.³⁵⁰ There could be short-term increases in prey availability that were unlikely to generate any detectable difference for the orcas.³⁵¹ Ocean fisheries have negligible impacts on most of Salish Sea resident and spring stocks, and stocks that were ocean migrators – those stocks harvested in the ocean fisheries – had tripled in terminal run sizes.³⁵²

NMFS' 2012 expert review panel identified several criteria for evaluating ocean fishery impacts, including: (1) foregone ocean fishery catch must be available to orcas rather than feed other predators and (2) fisheries would need to exclusively harvest from stocks targeted by orcas rather than from aggregate mixed-stocks.³⁵³ Alaska's troll fishery harvests mixed Chinook stocks that may migrate for six to eight hundred miles from harvest locations in Alaska before reaching the Washington coast and mouth of the Columbia River and nearly a thousand miles before reaching the

Bonneville Dam.³⁵⁴ Any Chinook not harvested in Southeast Alaska are highly susceptible to harvest by Canadians, sport fishermen, and other predators during this migration.

Chinook stocks or groups of stocks harvested in ocean fisheries, particularly in Alaska, are not the same stocks or groups of stocks targeted by Southern Resident orcas.³⁵⁵ The top four priority stocks for these orcas are north and south Puget Sound fall stocks followed by fall stocks from Lower Columbia River and the Strait of Georgia. These stocks are not far-north migrators and appear rarely in the Alaska troll fishery. The effect of ocean fisheries in general on stocks targeted by orcas off the Washington Coast in winter and inland Salish Sea in summer is minimal.³⁵⁶ Alaska troll harvests



Priority stocks for the Southern Resident orca such as Puget Sound and Lower Columbia stocks typically do not migrate through Southeast Alaska. Graphic: NMFS. 2018. Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion and Magnuson-Stevens Act Fishery Conservation and Management Act Essential Fish Habitat Response. Consultation on the Delegation of Management Authority for Specific Salmon Fisheries to the State of Alaska. NMFS Consultation Number: WCR-2018-10660.

from Southeast Alaska, northern and southern British Columbia and the Oregon and Washington coasts that make up the bulk of the Southeast Alaska troll catch.³⁵⁹

Despite the low impact on winter coastal and summer Salish Sea stocks, the Wild Fish Conservancy claims that closing the Alaska troll fishery would increase the amount of Chinook available to Southern Resident orcas by nearly five percent - as many as 314,000 to 553,000 fish out of a total coastal Chinook abundance ranging between 6.5 to 11.5 million in any given year – two to three times as much as annually harvested.³⁶⁰ To clarify, between 2017 and 2021, the Southeast Alaska troll fishery annually harvested between 108,000 and 170,00 Chinook. The Wild Fish Conservancy offers no justification for their wildly inflated numbers.

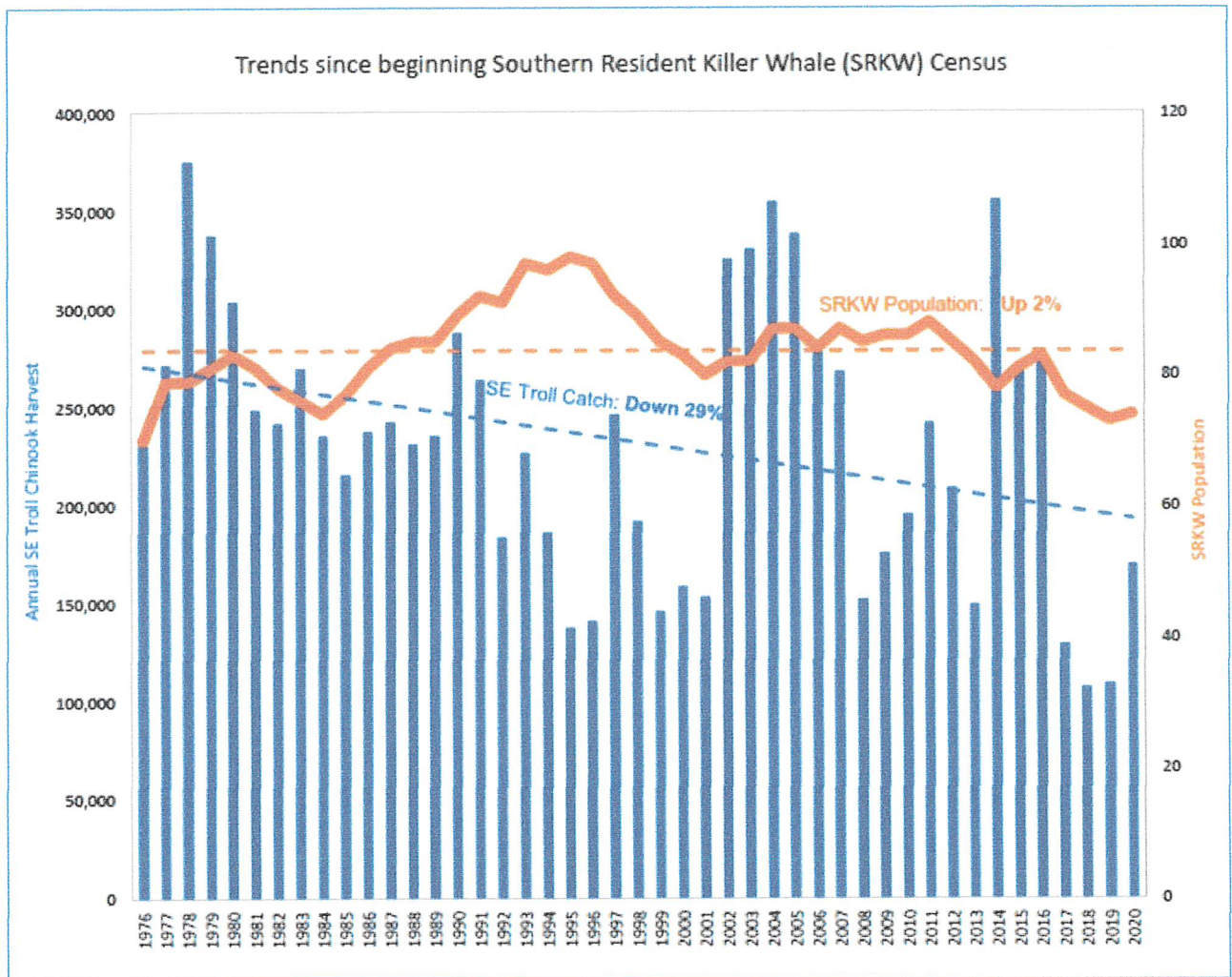
More importantly, the Wild Fish Conservancy ignored stock composition data showing that the Alaska troll fishery catches negligible proportions of the stocks ranked highest on the priority list for the orcas.³⁶¹ There is no harvest of most Puget Sound stocks; the few Puget Sound fish caught in the troll fishery comprise roughly 0.39 percent of the total harvest, meaning that in recent years trollers harvested at most, 400 to 700 Puget Sound Chinook salmon..³⁶² In the highly unlikely absence of any other fishing pressure or predation, closing the Alaska troll fishery would only increase Chinook availability by slightly more than a half percent in areas occupied by the Southern Resident orcas in coastal areas from October to April and Salish Sea areas from May through September.³⁶³

The Pacific Salmon Treaty reduced the Alaska troll fishery catch by over 30 percent over time while the Southern Resident orca population fluctuated up and down and actually grew by two percent since 1976. There is no correlation

are extremely low in relation to the specific stocks targeted by Southern Resident orcas in inland waters from May to September and in coastal waters from October to May.³⁵⁷

The Pacific Salmon Commission and the Alaska Department of Fish and Game maintain an extensive time series of stock composition data from the Alaska troll fishery and outer coast fisheries in British Columbia. The fisheries are managed based on the overall abundance of multiple stocks. The largest proportion of Chinook harvested in the Alaska troll fishery are stocks that migrate to or past the Washington or British Columbia coasts during the summer, when the Southern Resident orcas are most likely to be in the Salish Sea.³⁵⁸ Columbia River Bright and West Coast Vancouver Island stocks typically are the most abundant stocks feeding in Southeast Alaska waters, along with stocks

between reducing the amount of Chinook harvested in the Alaska troll fishery and Southern Resident orca population trends.³⁶⁴



The Southeast Alaska troll Chinook harvest has declined by 29 percent since the first Southern Resident orca census, while the orca population grew over the same time period. Graphic: Alaska Trollers Association.

4.2.1 Human harvest of Puget Sound stocks: mostly sportfishing and Canadian commercial/sport

Chinook abundance trends in Puget Sound have been highly variable since 1970.³⁶⁵ A typical range of Salish Sea summer Chinook abundance is .8 million to 1.0 million.³⁶⁶ Between May and September, Southern Resident orcas feed on Puget Sound and British Columbia Chinook returning to rivers that drain into the Salish Sea.³⁶⁷ The two top priority stocks for the orcas are the north and south Puget Sound fall run Chinook salmon.³⁶⁸

The Wild Fish Conservancy claims that Southeast Alaska troll harvests of these Chinook are a primary source of orca prey depletion.³⁶⁹ There are 22 populations in five regions further subdivided into 14 stocks/ management units.³⁷⁰ Half the harvest of seven of these stocks, or management units occurs primarily in Canadian waters.³⁷¹ A few populations in north and central Puget Sound support most of the overall abundance while the southern and westernmost stocks are at low levels.³⁷²

The stocks have distinct migration patterns, creating considerable variation in harvest locations.³⁷³ Most Puget Sound ocean-migrating Chinook spend their entire life in Salish Sea and Coastal British Columbia, where 85 to 90 percent of summer and fall run harvest occurs.³⁷⁴ None of the Puget Sound populations are far north migrating, making impacts from Southeast Alaska marine fisheries extremely low, especially when compared to other fisheries, whether individually or cumulatively.³⁷⁵ The Alaska troll fishery has nearly no impacts to nine Chinook stocks - exploitation rates range between 0.1 percent and 0.3 percent and the troll percentage of marine harvest ranges from 0.1 to 1.6 percent.³⁷⁶ From 1985 to 2019, Puget Sound Chinook comprised 0.39 percent of the Alaska catch.³⁷⁷

As shown below, higher exploitation rates in the Puget Sound and Canadian fisheries account for seven to ten times the impact on the two stocks that infrequently appear in Southeast Alaska waters, and at least several hundred times the impact on most stocks. Canadian fisheries take the highest proportions of the marine harvest of northern Puget Sound and Strait of Juan de Fuca stocks – between 45 and 75 percent.³⁷⁸ Puget Sound marine fisheries are responsible for most of the remaining harvest, taking between 50 and 75 percent of central and southern Puget Sound stocks.³⁷⁹ Exploitation by Puget Sound fisheries, particularly sport fisheries, put the most direct pressure on these stocks and, to the extent that these Chinook are accessible to orcas, sport fisheries have the greatest effect on prey availability by exclusively harvesting Puget Sound stocks (Table 1).³⁸⁰

Table 1: Regional Fishery Exploitation Rates for Puget Sound Chinook under the 2019 Pacific Salmon Treaty³⁸¹

ESU	SEAK Troll	Canada	PFMC	Puget Sound	Marine Area
Elwha River	1.0%	7.6%	0.9%	1.6%	11.4%
Dungeness River	1.0%	7.4%	.9%	2.0%	11.5%
Mid-Hood Canal	0.3%	9.6%	6.2%	4.5%	20.7%
Skokomish River	0.3%	9.5%	6.1%	31.5%	47.6%
Nooksack River	2.8%	25.9%	2.9%	4.7%	37.2%
Skagit River Spring	0.3%	9.0%	0.8%	11.1%	21.2%
Skagit River Summer/Fall	5.4%	16.0%	1.2%	18.3%	42.6%
Stillaguamish River	1.3%	11.1%	1.6%	4.1%	18.6%
Snohomish River	0.3%	10.0%	1.7%	4.6%	16.6%
Lake Washington	0.1%	11.2%	4.9%	9.4%	25.6%
Green River	0.1%	11.2%	4.9%	27.3%	43.5%
White River	0.3%	7.2%	1.7%	10.6%	19.7%
Puyallup River	0.1%	11.2%	4.9%	32.7%	49.0%
Nisqually River	0.1%	7.8%	6.5%	32.6%	46.9%

Mixed stock ocean fisheries have borne the bulk of the burden of reducing Chinook harvests on healthy stocks for decades in order to contribute to escapements of small numbers of weaker stocks with no meaningful improvement in Southern Resident orca population productivity. Meanwhile, marine sport fishery effort in British Columbia and Puget Sound on the same stocks targeted by the orcas is increasing, with harvests typically exceeding 35,000 Chinook each

year.³⁸² Freshwater sport fishing effort on Puget Sound Chinook has increased since the 1980s, and harvests over the past decade have ranged from ten to twenty-five thousand Chinook each year.³⁸³ Puget Sound marine and freshwater net fisheries harvested another twenty to sixty thousand Puget Sound Chinook in any given year over the past two decades.³⁸⁴

Washington State sport fisheries harvest mostly coho and Chinook, two of the main species eaten by orcas during summer and early fall months.³⁸⁵ In 2020, Puget Sound marine sport fishers took nearly twenty thousand Chinook mostly during July and September.³⁸⁶ Freshwater fishers that same year took over eleven thousand Chinook from Puget Sound rivers mostly between August and October – the summer and fall runs that are primary stocks for Southern Resident orcas.³⁸⁷ Sport fishers took nearly one hundred thousand coho from Puget Sound in 2020 – nearly all of them during August and September when they would otherwise be or become accessible prey for orcas.³⁸⁸

The Wild Fish Conservancy's proposal to eliminate Alaska troll fishery is likely to have the perverse effect of increasing the take of Puget Sound Chinook, particularly by Canadian sport and troll fisheries.³⁸⁹ Under the Pacific Salmon Treaty, most Canadian fisheries may harvest any portion of a domestic stock that is surplus to escapement needs.³⁹⁰ In the absence of an Alaska troll fishery, this harvestable surplus is likely to occur because a variable but significant portion of Southeast Alaska catch originates in Canada, particularly West Coast of Vancouver Island stocks.³⁹¹ Increased fishing effort in Canada aimed at harvesting surplus West Coast of Vancouver Island stocks would significantly increase overall harvest of Puget Sound stocks which comprise 14.5 percent of the Canadian catch.³⁹² Indeed, some estimates indicate that for every Puget Sound Chinook saved by closing Alaska's troll fishery, Canadian fisheries could harvest twenty Puget Sound Chinook.³⁹³

4.2.2 Puget Sound habitat

The Wild Fish Conservancy did not file a lawsuit against NMFS for approving continued implementation of Puget Sound fisheries in 2021, raising questions about why the Conservancy is targeting a distant fishery that harvests a small fraction of the total harvest of Puget Sound Chinook. The 2021 BiOp, multiple scientific analyses and government reports all point to other factors that harm the salmon populations targeted by the orcas – in particular, deteriorating habitat conditions.

Rapid population growth in Puget Sound alone is a significant threat to Southern Resident orcas because significant changes will be necessary to protect and restore salmon habitat.³⁹⁴ Washington state's population tripled from 2.4 million in 1950 to 7.4 million in 2018.³⁹⁵ Over two-thirds of the population lives in 12 counties adjacent to Puget Sound.³⁹⁶ The projected population in by 2030 in those counties is 5.7 million people.³⁹⁷ According to the 2021 BiOp evaluating Puget Sound fishery impacts, the additional population growth and urbanization will worsen already degraded salmon habitat.³⁹⁸ The 2021 BiOp recognized that habitat, not fisheries, is the primary problem and explained that ***"the continued destruction and modification of habitat is the principal factor limiting the viability of Puget Sound Chinook ... into the foreseeable future."***³⁹⁹

Overall, ocean fishery exploitation rates for Salish Sea salmon stocks declined so much since the 1990s that it should be obvious that other factors limit the salmon and the orcas' recovery.⁴⁰⁰ For example, it is becoming increasingly apparent that the length of time spent rearing in freshwater or nearshore Salish Sea marine habitats significantly influences salmon stock productivity patterns.⁴⁰¹ Abundance, survival rates and productivity for stocks that rear briefly in freshwater and then quickly exit the Salish Sea and its rivers, including pink, chum and hatchery Chinook, are generally stable or increasing.⁴⁰²

In contrast, naturally spawning Chinook, coho and sockeye that rear for extended periods of time in freshwater are decreasing in abundance and have lower survival rates.⁴⁰³ Ocean climate conditions and fishery impacts do not explain this phenomenon - there have been significant harvest cuts and periods of favorable climate patterns.⁴⁰⁴ Habitat quality at early life stages is critical to salmon survival, and the lengthy freshwater rearing stage and delayed ocean entry

are a disadvantage for wild Chinook and coho stocks.⁴⁰⁵ The impacts are most obvious in central and south Puget Sound due to the largest human population growth and most intensive freshwater and nearshore marine habitat degradation.⁴⁰⁶

The quality of all Puget Sound watersheds need to improve from current conditions in order to recover at-risk Chinook populations.⁴⁰⁷ Stillaguamish stocks continue to decline because of poor freshwater habitat conditions.⁴⁰⁸ Efforts to restore Nooksack stocks have been thwarted by long-term failures to protect and restore severely degraded riparian habitat that have left them susceptible to large die-offs during late summer high temperature and low flow events.⁴⁰⁹ The ongoing development of Hood Canal has reduced water quality to the point of causing significant fish kills.⁴¹⁰ Dams built for hydropower, irrigation and flood control are prevalent throughout Puget Sound watersheds, blocking access to habitat in many of the largest Chinook producing systems.⁴¹¹ The dams also changed flow patterns, increased temperatures, stranded juveniles and reduced downstream spawning and rearing habitat.⁴¹²

Barrier culverts are prevalent throughout Puget Sound. Culverts are the most common method used by road builders to cross streams.⁴¹³ They cost less than bridges but it is difficult to maintain fish passage with constantly changing stream and debris flows.⁴¹⁴ Culverts eventually become blocked and impede or become complete barriers to fish movements.⁴¹⁵ There are over 10,000 culverts on anadromous salmon streams in Washington and Oregon.⁴¹⁶ Between half and sixty percent of these culverts are barriers to salmon migration, blocking literally thousands of miles of fish habitat.⁴¹⁷ Culverts also can become barriers by creating high velocity stream flows.⁴¹⁸ Floods magnify this impact.⁴¹⁹ Overflow that bypasses barrier culverts also increases sedimentation and stream temperatures.⁴²⁰

The impacts of barrier culverts are much more extensive than the obvious problem of eliminating adult salmon spawning habitat because they eliminate habitat connectivity.⁴²¹ Juvenile salmon move within a watershed to rearing or overwintering habitat or explore other habitats at times in pursuit of food.⁴²² They also move to seek refuge from adverse environmental conditions such as floods or debris flows from landslides.⁴²³ Barrier culverts block those movements, cumulatively reducing population productivity by impairing foraging opportunities that slow growth and development and by blocking access to refugia.⁴²⁴ When less habitat is accessible to salmon for spawning and rearing and other life cycle needs, there can be a significant loss of population productivity, to the point of local extirpations.⁴²⁵

Logging and timber road construction has had significant impacts on upstream habitats in Puget Sound – particularly the loss of riparian forests that maintain water quality, regulate stream temperatures and contribute in multiple other ways to salmon rearing and spawning habitat.⁴²⁶ Some studies found stream temperatures to be up to 7 to 11°F warmer in logged areas in Western Washington.⁴²⁷ The warmer temperatures alter fish behavior and the timing of life cycle events and can cause population declines or even collapses.⁴²⁸ Timber roads, particularly widespread unpaved roads in upper stream reaches cause ongoing, chronic sediment delivery that goes downstream and degrades salmon spawning and rearing habitat.⁴²⁹ Sedimentation of stream beds is a principal cause of declining salmon populations throughout their range.⁴³⁰ Salmon abundance in forested watersheds with high road densities typically declines by over fifty percent.⁴³¹

Downstream, agricultural and urban development also removed riparian vegetation and trees, leaving unshaded watersheds with higher stream temperatures.⁴³² Water diversions in the lower stream reaches are a major habitat problem and eliminated many smaller channels, causing significant loss of juvenile salmon rearing and refuge habitat.⁴³³ The massive loss of wetlands has disrupted natural hydrological processes that maintain water quality for salmon.⁴³⁴ Urban and highway runoff, wastewater treatment, failing septic systems and agriculture or livestock impacts further degrade water quality throughout Puget Sound.⁴³⁵

The degradation and loss of freshwater and estuary habitat at river mouths has weakened salmon populations throughout the region.⁴³⁶ Various developments, water diversions and high contaminant concentrations and other intensive uses have heavily degraded or destroyed Pacific Northwest estuaries and continue to threaten these highly productive but vulnerable ecosystems.⁴³⁷ By the mid-1990s there was a loss of 70 percent of estuarine habitat in Puget

Sound – the second largest estuary in the U.S. - and 50 percent or more in Salish Sea estuarine habitat in British Columbia.⁴³⁸ The numerous rivers that flow into Puget Sound form many local estuaries that are adjacent to major shipping ports, industrial sites and waste treatment plants.⁴³⁹

Salmon production often corresponds to productive estuaries and estuarine vegetation such as seagrasses.⁴⁴⁰ The degradation of these estuarine habitats reduces prey densities and salmon survival rates and drastically diminishes salmon returns.⁴⁴¹ Salmon pass through estuaries twice, during outmigration as smolts and then when returning to spawn as they transition between freshwater and the marine environment.⁴⁴² Chinook in particular rear extensively in estuaries as juveniles.⁴⁴³ Multiple studies of juvenile salmon show that their initial growth and survival depend on the capacity of these systems to produce forage and protection from predators.⁴⁴⁴ Coastal wetlands that contribute to the productivity of Pacific west coast and Puget Sound estuaries are disappearing rapidly.⁴⁴⁵

Contaminants from industrial waste, stormwater, chemical spills, and run-off significantly degrade estuaries and the combined contaminant cocktails reduce juvenile Chinook survival.⁴⁴⁶ Legacy contaminants such as PCBs and DDTs remain at elevated levels in sediment and fish.⁴⁴⁷ Estuarine concentrations of other contaminants such as PAHs, PBDEs, pharmaceuticals, personal care products are increasing.⁴⁴⁸ These contaminants accumulate quickly in juvenile Chinook because of they consume large amounts of prey in estuaries in order to grow rapidly before migrating to the ocean.⁴⁴⁹

Juvenile Chinook that rear in uncontaminated estuaries are nearly twice as likely to survive to adulthood than juvenile Chinook transiting contaminated estuaries.⁴⁵⁰ Wild juvenile ocean-type Chinook spend twice as much time in estuaries than hatchery Chinook or other salmon species causing more dramatic impairment and large changes in population abundance.⁴⁵¹ The toxic exposure over longer periods of time impairs growth, alters behavior, increases susceptibility to disease and results in higher mortality rates.⁴⁵²

4.2.3 Impacts to Coastal Chinook abundance

The Wild Fish Conservancy alleges that the Southeast Alaska troll fishery is a primary source of prey depletion for lower Columbia River and Snake River Chinook, contributing to orca starvation. The estimated impact of the Southeast Alaska troll fisheries on Southern Resident orca prey availability under the Pacific Salmon Treaty is very small – less than half a percent.⁴⁵³ Other ocean salmon fisheries that overlap spatially with the range of the Southern Resident orcas also cause minimal or no prey reduction during October to April time period regardless of year or region.⁴⁵⁴ Typically Chinook abundance during these months when Southern Resident orcas feed on coastal stocks is 2.7 million to 4.7 million.⁴⁵⁵ The small amount of coastal Chinook abundance that may increase through further cuts to the Alaska troll fishery would be negligible because Alaska fishers catch Chinook returning to coastal river systems between July and October when the Southern Resident orcas occupy the Salish Sea.⁴⁵⁶ Harvests of Columbia River Chinook consist mostly of summer and fall Chinook stocks, particularly Columbia Brights and some Columbia River Summer stocks.⁴⁵⁷

Despite the 1990s decline, Columbia River Chinook runs have proven to be resilient, with total annual runs exceeding a million Chinook.⁴⁵⁸ The most abundant stock, Columbia River Brights, supports numerous fisheries, including ocean harvests by southern U.S., Canadian and Alaska troll and sport fisheries and by several Columbia River sport and gillnet fisheries.⁴⁵⁹ Columbia River bright stocks are generally healthy and meeting or exceeding escapement goals.⁴⁶⁰ On average, over 700,000 fall Chinook have returned each year over the past decade with Columbia River Brights comprising up to two-thirds of the return.⁴⁶¹ There were three 3 straight years of total returns of over a million fall Chinook from 2013-2015.⁴⁶² Snake River fall returns have also improved considerably over the past decade, including five of the highest returns of the 21st century from 2011 through 2015.⁴⁶³ Summer Chinook returns have also steadily increased, with run sizes over the past decade three to four times as high as the 1980s and 1990s.⁴⁶⁴

Columbia River summer and Upriver bright fall stocks are the most important of the Columbia River stocks harvested in the Alaska troll fishery.⁴⁶⁵ Overall, Southeast Alaska harvests of Columbia River salmon are lower than other fisheries. In particular, there has been a massive increase in angler effort on the mainstem Columbia River, nearly

tripling to over 118,000 angler trips since the 1980s.⁴⁶⁶ Columbia River sport harvests were at the highest levels since 1980 over the past decade, exceeding well over 100,000 Chinook each year between 2010 and 2017, and peaking at over 150,000 Chinook in 2015.⁴⁶⁷ Columbia River net fisheries have typically harvested between one to two hundred thousand Chinook over the past decade with a peak of nearly four hundred thousand Chinook.⁴⁶⁸ Columbia River brights comprise most of the in-river sport and net harvests.⁴⁶⁹ These stocks have significantly exceeded escapement goals since 2009 and would actually support higher harvests.⁴⁷⁰

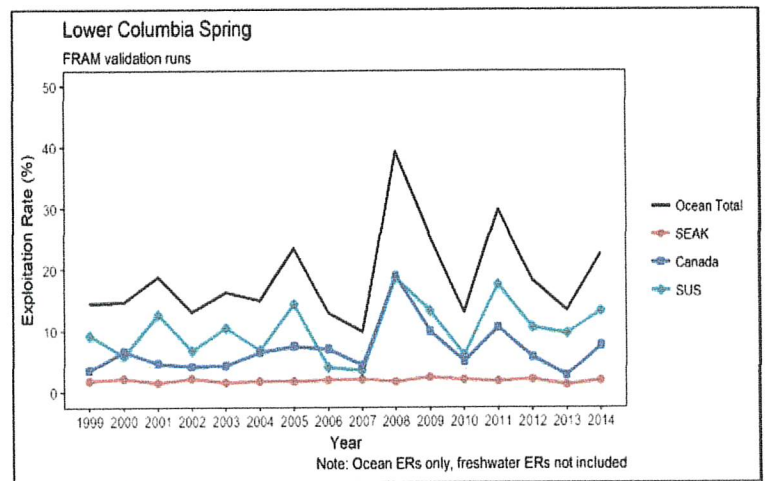
During the winter Southern Resident orcas target a broader range of Chinook stocks than during the summer in the Salish Sea, including some of the abundant Columbia River Brights.⁴⁷¹ Columbia Spring runs, however, are probably the most important stocks for Southern Resident orcas during this time of year, comprising over half of the Chinook consumed by the orcas in winter and spring.⁴⁷² Spring Chinook historically were the most available stocks during winter and early spring months, returning in large numbers of bigger, fatter fish.⁴⁷³ Spring Chinook migrate early, entering the river between February and June and spawn during August through October.⁴⁷⁴ Southern Resident orcas frequently gather at the mouth of the Columbia River in pursuit of these fish.⁴⁷⁵

The Columbia River Basin alone has 22 major and 353 minor dams.⁴⁷⁶ The greatest reductions from historical population levels occurred for Columbia River Spring Chinook most important to the Southern Resident orcas.⁴⁷⁷ The declines have been the most severe because these fish typically spawned in areas that are now upstream from impassable dams.⁴⁷⁸ Impacts to Spring Chinook were widespread, most notably in the Columbia River but affecting all spring runs.⁴⁷⁹ Dams, failed culverts, logging, mining and urbanization have severely degraded the cold, clear tributary streams used by spring Chinook, leaving few Pacific Northwest watersheds in good enough condition to support Spring Chinook.⁴⁸⁰

These Chinook stocks are highly vulnerable to habitat degradation in the Columbia Basin because they spend up to a year in freshwater before entering the marine environment.⁴⁸¹ There has been considerable recent variability in abundance, with record high and record low returns occurring during the 21st century driven by increases or decreases in hatchery returns.⁴⁸² **Because most Columbia River Spring runs have a non-coastal ocean distribution, marine fishery impacts on spring Chinook stocks are negligible and lower in the Alaska troll fishery than in any other marine fishery.**⁴⁸³

NMFS recently evaluated Southeast Alaska fishery impacts on three specific Chinook populations from the Lower Columbia River, Willamette River, and Snake River. The effects of ocean harvest on all of these stocks were declining by the late 1990s.⁴⁸⁴ Most Lower Columbia River Chinook stocks are not far-north migrating and rarely encountered in Alaska troll fisheries.⁴⁸⁵ The few Lower Columbia stocks that are far north migrators are a small proportion of Alaska troll fishery catch which is a very small proportion of total run size.⁴⁸⁶ Southern U.S. fisheries and Canadian fisheries harvest over a half and over a third of the Lower Columbia River stock, respectively.⁴⁸⁷

Harvest has not been a limiting factor for either the Upper Willamette River or Snake River fall-run since the early 1990s.⁴⁸⁸ Other factors are currently impeding recovery.⁴⁸⁹ The overall marine exploitation rate for Upper Willamette River Chinook is exceptionally low so that ocean fishery harvest is not a primary or limiting factor for the stock.⁴⁹⁰ These stocks comprise a small portion of Southeast Alaska fishery harvests.⁴⁹¹ Freshwater sport and commercial fisheries in the lower mainstem Columbia River, mainstem Willamette River and Willamette tributaries take



Graphic: NMFS. 2018 BiOp

a higher proportion of the Willamette Chinook than ocean fisheries.⁴⁹² As with other analyzed Chinook stocks, Alaska troll harvest is a very small fraction of the Snake fall harvest - harvests from in-river fisheries and other marine fisheries in Canada and the U.S. all have exploitation rates ten to twenty times as high.⁴⁹³ There have been harvest cuts throughout the range of Snake River salmon and the population is improving significantly.⁴⁹⁴ Spawner abundance is increasing with average escapements over four times as high in the 2010s as in the early 2000s.⁴⁹⁵

Because dams are the main limiting factor for Columbia Basin stocks, orca researchers recommend immediate increases in spill levels at Snake and Columbia River dams and the removal of lower Snake River dams.⁴⁹⁶ They believe that improving habitat conditions in the Columbia Basin are essential for the recovery and likely the survival of Southern Resident orca populations.⁴⁹⁷ The current recovery plan for Lower Columbia River Chinook focuses on fixing problems with tributary and estuary habitat and dams.⁴⁹⁸ Tributary dams that block over 400 miles of habitat are a primary limiting factor for Willamette River Chinook.⁴⁹⁹ The dams also reduce flows and increase downstream temperatures.⁵⁰⁰ The cumulative impacts of agriculture, urbanization, logging and other developments have eliminated or degraded spawning and rearing habitat, ruined riparian areas, impaired water quality and increased water temperatures.⁵⁰¹ Introduced species have increased predation and competition.⁵⁰² Dams, predation, degraded estuary and mainstem and tributary habitat continue to impede recovery for Snake River fall Chinook.⁵⁰³

5. Conclusion

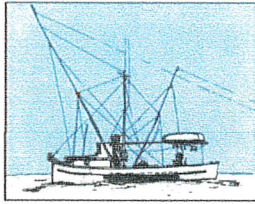
Pollution, industrial toxins, urbanization, habitat loss and human-caused disturbance are the primary factors limiting the recovery of the Southern Resident orcas. Any one factor – acoustic disturbances from vessel traffic, the orca observing industry, chemical contaminants or habitat harms specific to naturally spawning Chinook, chum and coho salmon – may in itself be a significant cause of nutritional stress, higher death rates or failed pregnancies. More than likely a combination of factors are driving Southern Resident orca population trends.

The Alaska troll fishery is managed under the Pacific Salmon Treaty based on the abundance of Alaskan resident and far-north migrating Chinook salmon that spend most of their lives feeding in the Gulf of Alaska. Very few of the fall Chinook from Puget Sound, Lower Columbia River or the Strait of Georgia the stocks that are most critical to SRKWs migrate to Alaska and thus are not susceptible to being caught by Alaskan trollers. Less than half of one percent of the Alaska troll catch is from the top priority Puget Sound fall stocks. Far more Puget Sound Chinook are taken in Puget Sound and British Columbia sport fisheries or during the Chinook's migration by other predators than in the distant Alaska troll fishery. The readily available stock composition data renders bizarre the Wild Fish Conservancy's marketing campaign against Alaska's small boat fishing families.

To restate, the Wild Fish Conservancy's theory that commercial fishing is a primary cause of Southern Resident orca population trends is contradicted by the numerous recent scientific analyses that track salmon abundance and Southern Resident orca diet composition. Indeed, cuts to ocean fisheries have been the primary means of improving Chinook escapements over the past three decades, and these harvest sacrifices by ocean fishermen have failed to recover the orcas because other habitat harms have continued and worsened. Sadly, the decline of the Southern Resident orcas is likely to continue until habitat damage, pollution and other human-related pressure on the orca is reduced. The Wild Fish Conservancy might look to their own sport fishing and orca observing constituency if saving the orcas is the true objective of their action.

Alaska Trollers Association

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January 8, 2023

Dear Honorable Members of the Alaska Congressional Delegation,

The Alaska Trollers Association (ATA) and the Alaska Longline Fishermen's Association (ALFA) are contacting you with the utmost urgency regarding a misguided lawsuit unfairly targeting a Southeast Alaska salmon fishery.

The Southeast Alaska troll fishery has been targeted in litigation by a Washington State NGO known as the Wild Fish Conservancy (WFC). The plaintiff claims that the National Marine Fisheries Service (NMFS) did not sufficiently protect the Southern Resident Killer Whale (SRKW) population's food source, the Chinook, in their Biological Opinion (BiOp) for the Southeast Alaska fisheries governed by the Pacific Salmon Treaty. WFC's lawsuit targets the Southeast troll fishery for closure, arguing that will help the SRKW, even though science identifies industrial toxins, noise disruption, and habitat loss as the true threats to the SRKW population.¹ In short, the lawsuit is a fundraising stunt, with no real agenda to help the whales.

We ask your assistance to keep our fleet fishing and to ensure the agencies working to defend our fishery are successful.

A few weeks ago, the Magistrate Judge in the U.S. Western District Court of Washington unbelievably and in poor judgement recommended vacating the Incidental Take Statement (ITS) that is part of the BiOp for the upcoming winter and summer troll fisheries. If adopted by the Judge, this action could shut down our troll fishery and may jeopardize Marine Stewardship Council certification for Alaska's salmon fisheries. Prior to that ruling, we understood that lawsuit compliance would demand NMFS revise the BiOp and complete additional analysis under the National Environmental Policy Act. Now, with the ITS potentially in jeopardy, the ramifications of the lawsuit could be far more severe.

Threats to the SRKW

The SRKW spend most of their lives in the heavily polluted and densely trafficked waters of Puget Sound. The SRKW carry one of the highest levels of industrial toxins of any marine mammal in the world. These marine toxins compromise the whales' health and ability to reproduce. The whales also suffer from vessel strikes in Puget Sound, noise disturbance, and relentless levels of whale watching. In fact, readily available data documents that the whales are not food limited, and their decline is not correlated with Chinook abundance or scarcity.² Nevertheless, the WFC's lawsuit threatens to close our fishery, which operates under strict limits 1000 miles away from the whales' territory.

¹ Kim, J.J., Delisle, K., Brown, T.M., Bishay, F., Ross, P.S. and Noël, M., 2022. Characterization and Interpolation of Sediment Polychlorinated Biphenyls and Polybrominated Diphenyl Ethers in Resident Killer Whale Habitat along the Coast of British Columbia, Canada. *Environmental Toxicology and Chemistry*, 41(9), pp.2139-2151; Houghton, J. et al. 2015; Siegle, M.R. 2018; Wiles, G.J. 2016; Southern Resident Orca Task Force. 2018; 2018 BiOp at 90, 311. See: ALFA.ATA White Paper Orca, Chinook, and Troll Fishery. Page 5

² Rice, J. 2019. Are the Orcas Starving? Scientists say it's not that simple. August 9, 2019. Available at: <https://www.pugetsoundinstitute.org/2019/08/are-the-orcas-starving-scientists-say-its-not-that-simple/>; for more references, see ALFA.ATA White Paper Orca, Chinook, and Troll Fishery. Page 14

While we recognize that the SRKW are in trouble, this lawsuit will do nothing to help the whales; in fact, it distracts from meaningful efforts to improve the whales' health and recovery. Other killer whale populations are increasing; SRKW populations are the exception. The whales are not food limited; again, they are suffering from environmental toxins, noise disruption, vessel strikes and other human population pressure in their home waters of Puget Sound.

We recognize that the "science" put forth by the WFC is easily proven inaccurate, and we have worked hard to compile the evidence to support our position. We requested an evidentiary hearing some months ago so the Magistrate hearing the case could weigh the credibility of WFC's experts, but that request was denied. Attached is a white paper co-authored by ATA and ALFA that summarizes research and data on threats to the SRKW. Also attached is a lawsuit update prepared by Pacific Salmon Treaty Coordinator Dani Evenson of ADFG, a description of our troll fishery, and a visual description of the areas being discussed. We hope you find this information helpful in understanding the illogical nature of this lawsuit.

The WFC Agenda

There is a troubling and transparent agenda here. The WFC is a recurring litigant. They fundraise around lawsuits and, under the Equal Access to Justice Act, they have time and again padded their lawyers' pockets through litigation. The WFC also receives federal funding, including Pacific Salmon Treaty mitigation money. In fact, in 2021 the WFC received \$927,984 in federal funds—then sued NMFS to close our Alaska fishery and Chinook hatchery production in the Puget Sound area (documentation included in packet). The fallacy of the lawsuit and WFC disingenuous agenda should be publicly repudiated.

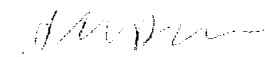
Our Request

We hope that you will consider issuing a statement in support of our Alaska fishing families that calls out the fallacy of the WFC lawsuit. Your commitment to a positive outcome will underscore for both NMFS and ADFG the urgency of this work to defend our fishery, and the importance of completing the necessary BiOp and NEPA documents before the summer fishery is scheduled to start. We believe additional resources for research, analysis, and legal preparation are crucial, and ask for your ongoing investment in this essential work. Finally, we ask that you evaluate the appropriateness of the federal government funding an NGO that files misleading and highly destructive lawsuits.

The communities of Southeast Alaska depend on the troll fishery and cannot withstand a year without fishing—nor should they have to. The troll fishery is a low volume/low impact hook and line fishery that sustainably supports Southeast Alaska families and rural communities. On behalf of our combined membership, we respectfully request that you work with our fleet and the parties involved to protect our fisheries and to secure a positive outcome to this lawsuit.

Thank you for your relentless work on behalf of Alaska's fishermen and fishing communities. We look forward to hearing from you.

Respectfully,



Amy Daugherty
Executive Director, ATA



Linda Behnken
Executive Director, ALFA

cc: Commissioner Vincent-Lange
Ms. Janet Coit, NOAA Assistant Administrator
Mr. Jon Kurland, NOAA Regional Director

FOR IMMEDIATE RELEASE

Alaska's small boat fishermen strongly object to the U.S. District Court's proposed order to close Southeast Alaska's winter and summer Chinook fishery

Sitka, AK - On January 10th the Alaska Trollers Association (ATA) filed objections to the proposed order by a Magistrate Judge from the United States Western Washington District Court that would effectively shut down Southeast Alaska's winter and summer Chinook troll fishing seasons. If adopted by the court, the order would leave thousands of rural Alaska fishermen without their primary source of income for 10 months of the year.

The Wild Fish Conservancy, a Seattle-based organization known for its extreme positions on fish hatcheries and fishery harvest management, has singled out Southeast Alaska's troll fishery in its lawsuit against the National Marine Fisheries Service (NMFS). The lawsuit challenges NMFS' Biological Opinion regarding Southeast Alaska's fisheries and the impact of the fisheries on Washington's Chinook and Southern Resident Killer Whales (SRKW).

"No one is more invested in the future sustainability and recovery of Washington's Chinook than Southeast Alaska's trollers." Said Amy Daugherty, the Executive Director of Alaska Trollers Association. "Our livelihoods depend on their survival, which is why we have reduced our Chinook harvest by 44 percent over the past four decades. Science tells us though that cutting harvest is not going to be enough to restore Washington's local Chinook populations and it will do nothing to help SRKW. SRKW are threatened by urbanization, toxic water pollutants, and noise disturbance. The Chinook are threatened by impassable dams and habitat damage. If the Wild Fish Conservancy really wanted to do something positive for the SRKW and Chinook, they would join forces with our small boat fishermen rather than try to eliminate one of the salmon's most important allies and stewards."

On December 13th, the Magistrate for the U.S. Western Washington District Court released a Report and Recommendation with a proposed order that includes temporarily vacating the incidental Take Permit (ITS) that allows Southeast Alaska's troll fishery to harvest Chinook year-round. NMFS is currently working to revise the Biological Opinion, including the ITS.

ATA's objections to the Report and Recommendation named two specific problems with the court's proposed order. First, the court improperly concluded that the declarations of two Southeast Alaska fishery and economics experts were not admissible and accepted WFC's request to strike the information they had provided. Such testimony is critical to the Court's understanding of the Troller's predicament and should be admitted under the liberal standards that govern this type of testimony. ATA has requested Judge Jones consider the dismissed declarations as he evaluates ATA's objections.

ATA's second objection was that the Report and Recommendation "illogically and inequitably" concludes that the ITS should be vacated. The Magistrate's recommendations contradict NMFS conclusion that the ITS would not "appreciably reduce the likelihood of both survival and recovery of Southern Resident killer whales or destroy or adversely modify their designated critical habitat." ATA argues that Report and Recommendation also fails to explain why the mitigating measures currently in place are insufficient despite the conclusions in the Biological Opinion that state otherwise.

"We hope that the Judge will take a hard look at the facts that trollers and ATA submitted, including the devastating economic, cultural, and generational consequences that would result from shutting down Southeast Alaska's troll fishery," said Pelican City Mayor Patty Phillips. "The potential implications of this decision for fishing villages like Pelican and the entire Southeast region are massive."

For more information contact:

Amy Daugherty alaskatrollers@gmail.com

Jeff Farvour: 907 738-0898

Trolling: Alaska's quintessential low impact small boat fishery



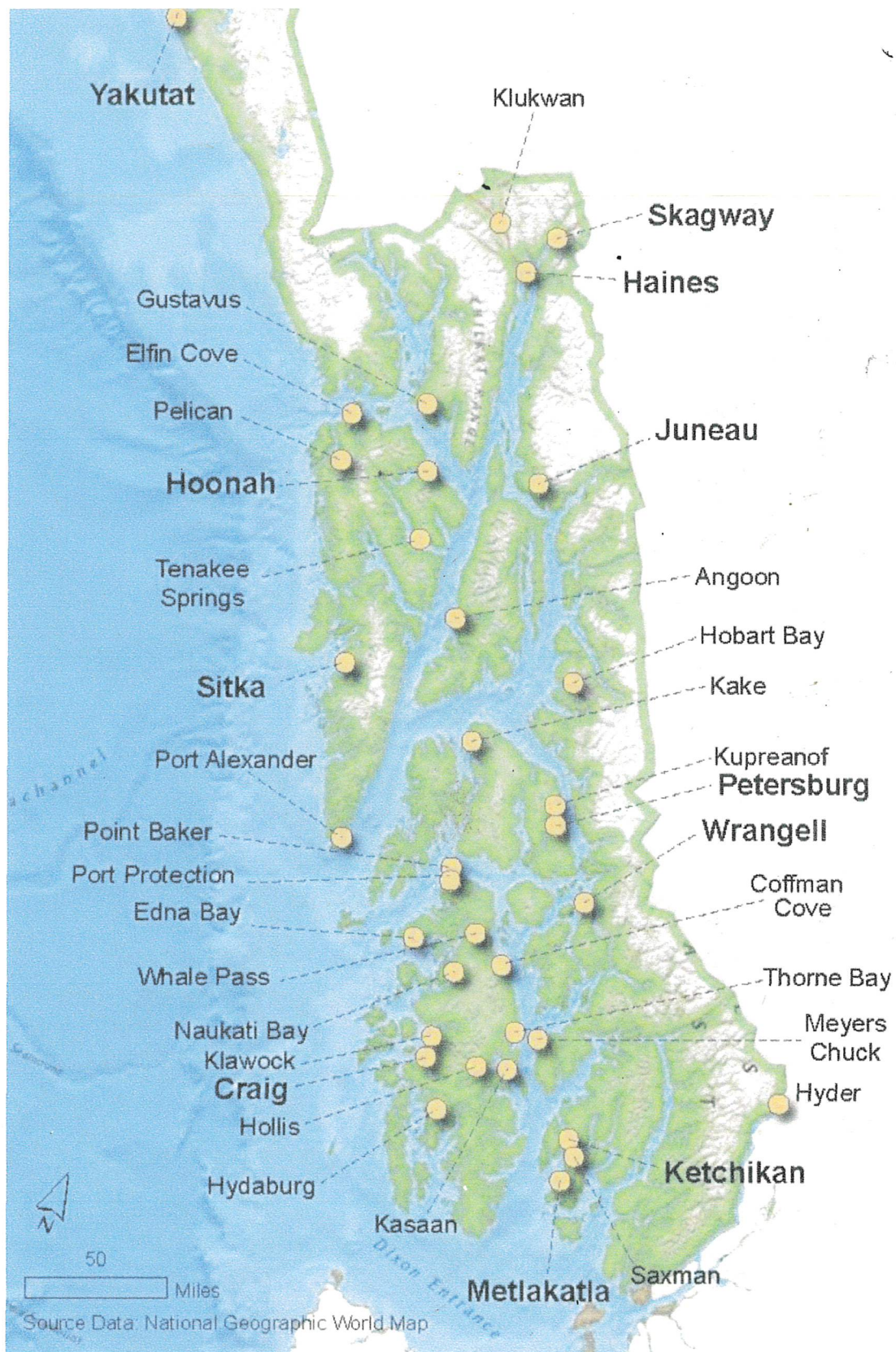
The Southeast Alaska commercial troll fishery has been sustainably harvesting salmon for nearly 120 years. Trollers (not to be confused with *trawlers*) are hook and line fishermen operating small, often family-run, boats. They slowly pull four lines with bright lures (very similar to sport fishing) through the water for salmon to bite, resulting in little to no environmental impact. Trollers are the only commercial salmon fishermen who catch salmon one at a time, individually caring for each fish. Trolling is a low volume, high value fishery: every fish is handled with the utmost care, resulting in some of the highest-quality seafood products available in U.S. markets.

Southeast Alaska's salmon fisheries are managed under the bilateral Pacific Salmon Treaty, which governs shared harvest and conservation responsibilities between Alaska, British Columbia, and the lower 48. These shared responsibilities are necessitated due to the transboundary migration of salmon throughout their life cycle. Southeast Alaska's troll fishery Chinook harvest is a key component of the catch, and has been substantially reduced over time in an effort to relieve pressure on struggling stocks in the Lower 48 due to habitat loss (dams, water pollution, urbanization). Trollers are deeply invested in and dependent on the future survival and sustainability of Chinook salmon - their Chinook fishery's survival depends on it.

Commercial fishing is an economic pillar across Southeast Alaska. Specifically:

- The troll fleet is one of the largest in Alaska, with 85% of troll permit holders residing in Southeast Alaska.
- Southeast Alaska includes 35 remote communities, some with populations under 500 people and with limited economic opportunity. The troll fishery provides an entry level opportunity due to its affordability when compared to other fisheries in Alaska. As a result, there are troll permits housed in virtually every community in Southeast Alaska.
- The troll fishery provides more jobs for Alaskan residents than any other fishery and is especially important to those who live in smaller, remote communities; roughly one of every 40 people in Southeast Alaska works on a trolling boat.

- Trolling is essentially a year-round salmon fishery, providing fishermen with year-round revenue and high quality fresh fish to markets during months when fresh salmon is not typically available.
- The troll fishery, along with other salmon fisheries in Southeast Alaska, is sustainably managed under strict annual limits negotiated through the Pacific Salmon Treaty. In-season harvest is carefully managed by Alaska Department of Fish and Game, who has a long history of sustainable salmon management.
- Including fishing, processing, and all related multiplier effects, the troll fleet has a total economic impact in Southeast Alaska of approximately \$85 million annually, as measured in terms of total output.
- Maintaining access to this fishery is critical for the well-being and continued diversification in Southeast Alaska's economy. The troll fishery is a lifeline for rural livelihoods across this region where hundreds of small-boat fishermen take great pride in the high quality product they provide to consumers across America.



Chinook Migration along the Pacific Northwest Coast

- Chinook Stocks
- Southwest Alaska and Transboundary River stocks
 - Northern BC stocks
 - Puget Sound stocks
 - Far north migrating Columbia, Snake River, and Oregon coastal stocks
 - Lower Columbia stocks
 - Southeast Alaska commercial troll area
 - Salish Sea/summer-fall habitat for SRKW
 - SRKW Critical Habitat

0 100 200 mi



Sources include: <https://www.dsc.org>

Washington

Oregon

Puget Sound

Georgia Strait

British Columbia

Canada

Southeast Alaska

Alaska

DRAFT Resolution for the City and Borough of Wrangell

Whereas commercial fishing is a mainstay of Wrangell's economy and the largest private sector employer in the state; and

Whereas the troll fleet is the second largest fleet in Alaska and

Whereas commercial salmon trolling is a year-round contributor to Wrangell's economy and sustains year-round employment in the fishing, processing, and support sector industries; and

Whereas including fishing, processing, and all related multiplier effects, the troll fleet has a total economic impact of \$85 million for the whole of Southeast annually, as measured in terms of total output; and

Whereas the lawsuit filed by the Wild Fish Conservancy against the National Marine Fisheries Service threatens to close the Southeast troll fishery despite that closure providing no meaningful benefits to Southern Resident Killer Whales; and,

Whereas the community of Wrangell will suffer severe economic hardship if the Southeast troll fishery is closed; then

Therefore, be it resolved that the Wrangell City Assembly urges in the strongest possible terms that:

NMFS prioritize preparation of the necessary documents and processes to support prosecution of the Southeast winter and summer troll fisheries; and,

NMFS and ADFG commit the necessary resources to effectively defend Alaska's fisheries and the Southeast troll fishery in particular; and

All necessary and available state, federal or private resources be made available to support lawsuit defendants and intervenors; and

The State of Alaska work with Alaska's Congressional delegation to protect Alaska's fisheries from present and future misdirected or malicious lawsuits.

Sources:

<http://www.aktrollers.org/wp-content/uploads/2021/01/Economic-Impact-of-the-PST-on-SE-Trollers-Final-Report-12-5-2019-2-2-1.pdf>

<https://www.cfec.state.ak.us>

CITY & BOROUGH OF WRANGELL, ALASKA BOROUGH ASSEMBLY AGENDA STATEMENT

<u>AGENDA ITEM TITLE:</u>	<u>DATE:</u>	February 14, 2023
	<u>Agenda Section</u>	13

Approval to add the City and Borough of Wrangell to the Klawock, AK Fish and Game Advisory Council petition against placing the Alexander Archipelago Wolf in Southeast Alaska as threatened or endangered under the U.S. Endangered Species Act

SUBMITTED BY:

Jeff Good, Borough Manager

FISCAL NOTE:

Expenditure Required:

FY 21: \$	FY 22:	FY23: \$
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Amount Budgeted:

	FY21 \$0
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Account Number(s):

	Detail provided below
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Account Name(s):

	Detail provided below
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Unencumbered Balance(s) (prior to expenditure):

	Detail provided below
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Reviews/Approvals/Recommendations

<input type="checkbox"/>	Commission, Board or Committee
Name(s)	
Name(s)	
<input type="checkbox"/>	Attorney
<input type="checkbox"/>	Insurance

ATTACHMENTS: 1. Appraisal Company of Alaska, LLC contract

RECOMMENDATION MOTION:

Move to Approve supporting adding the City and Borough of Wrangell to the Klawock, AK Fish and Game Advisory Council petition against placing the Alexander Archipelago Wolf in Southeast Alaska as threatened or endangered under the U.S. Endangered Species Act

SUMMARY STATEMENT:

The Klawock, AK Fish and Game Advisory Council is grateful for this opportunity to participate in the public process about resource management in our state.

Item f.

On July 15, 2020, the Center for Biological Diversity, Alaska Rainforest Defenders and Defenders of Wildlife petitioned the Secretary of Interior/US Fish and Wildlife Service (USFWS) to list the Alexander Archipelago (AA) Wolf in Southeast Alaska as threatened or endangered under the U.S. Endangered Species Act. The first petition to list the AA wolf was filed in 1993. The second was filed in 2011. The third and current one was filed in 2020 also requests that critical habitat be designated for AA wolves in Southeast Alaska. The document can be found at www.biologicaldiversity.org and www.doi.gov. We would like to state that the recurring petition process takes time away from resource managers studying wolf populations and other important issues and is disruptive for certain residents. The signatories of this document believe that the AA wolf should not be listed under the Endangered Species Act.

Prince of Wales Island, the third largest island in the United States, is home to approximately 3500 residents that reside in twelve rural communities, ranging from 35 in remote Point Baker to over 1000 in Craig. Many residents rely largely on a subsistence way of life. Subsistence in rural Alaska means legally that residents can fish and hunt under bag limits that allow us to fill our freezers and pantries because we do not have access to goods and services that people who live in urban areas have. Traditional subsistence lifestyles have been and still are practiced by the Tlingit, Haida and Tsimshian people who have lived here since time immemorial. Prince of Wales area census data from 2021 shows 41.6% Alaska Native residents which is almost half the population of POW's communities. Subsistence is a very important part of Alaska Native culture, tradition and heritage. Deer hunting is a major part of the subsistence lifestyle and is vitally important on POW. Our relationships, mental and physical health and food security are all improved by deer hunting. Deer hunting on POW is important because this is the only populated area in the region with just one ungulate game animal; POW does not have caribou, moose, elk, sheep, bison, mountain goat or muskox.

Today, subsistence on POW is critical in terms of food security, as soaring inflation nation-wide has increased the cost of all goods and services. Shipping chilled or frozen food here costs \$0.82/lb. In Klawock, a gallon of milk is \$6.49, a dozen eggs are \$5.19 and ground beef is \$5.99 per pound. Additionally, gas is \$5.87/gal and \$6.23/gal for diesel. Food and fuel costs are a larger percentage of the family budget than the average household.

Information presented by Alaska Department of Fish and Game (ADFG) and other agencies at the 2022 Deer Summit on POW (October 13-15, 2022) show that the deer population has obviously declined in the past ten years. In 2012, hunters in Unit 2 averaged about 3.5 days of hunting effort per deer harvested; in 2022, hunters spent an average of 4.9 days trying to harvest a deer, according to ADFG hunt report survey data from 2012-2021.

We acknowledge that the deer population is affected by numerous factors, including habitat loss from fifty years of industrial scale old-growth logging on POW. We have noticed that, while ADFG reports link POW old-growth forest to healthy deer populations and state that the POW deer population is in trouble, Division of Forestry staff continue to describe the old-growth stands they cut here as low value and minimize their importance to deer and to hunters. That doesn't agree with what we heard at the 2022 Deer Summit. We also acknowledge there is work to be done in terms of considering changing deer bag limits or seasons in response to population concerns.

While we acknowledge that POW is not the only place where the AA wolf exists, we do know that effects of management actions are felt more sharply on our island; in part, because it is an island. We have seen more wolves more frequently over the past decade, so we have questions about whether this trend is occurring in other places within the AA wolf's range. ADFG has been cautious and conservative, but to accurately assess the population of wolves in a temperate rainforest has always been difficult. As ADFG continues to refine the methodologies used to estimate and balance populations with carrying capacity, we expect the wolf population will remain healthy. We know the AA wolf is a top predator of Sitka blacktail deer and is far from being endangered. Our personal observations and trends in ADFG data lead us to believe the wolf is thriving in our area. Recent harvests of wolves have shown that past estimates were much lower than current numbers reflect.

If the AA wolf is listed under the Endangered Species Act, the federal government will assume authority over management, which will end legal trapping and hunting of wolves. If deer populations are decreasing, it doesn't make sense to list one of its top predators as endangered unless there is credible science and data that show good cause. ADFG has a growing list of data and science, including its own studies here on POW, proving the AA Wolf should not be listed under the Endangered Species Act.

Everyone agrees that wolves are an important part of POW and we enjoy seeing them, hearing them or just knowing that they exist here. However, listing the AA wolf as endangered will not accomplish better management and will eliminate all legal take of the top non-human predator in an island ecosystem where Sitka blacktail deer is the only ungulate prey available.

We strongly oppose listing the AA wolf as endangered or threatened.

Item f.

The Klawock ADFG Advisory Council

The following list also supports the above letter

Alaska Trappers Association Fairbanks, AK	Alaska Outdoor Council Anchorage, AK	Clinton Cook Sr. Tribal President Craig Tribal Association Craig, AK	Scott Van Valin Heidi Van Valin Island Air Express El Capitan Lodge
City of Klawock Klawock, AK	City of Craig Craig, AK	City of Coffman Cove Coffman Cove, AK	City of Thorne Bay Thorne Bay, AK
City of Kasaan Kasaan, AK	Hollis Community Council Hollis, AK	ADFG Ketchikan AC	
Tim O'Conner Mayor of Craig VP Alaska Troller Assoc. F/V Virginia Rose Craig, AK	Ray & Elizabeth Douville F/V Faith Faith Fisheries Craig, AK	David & Jen Creighton Shelter Cove Lodge Rainforest Auto Rentals Craig, AK	Sam & Michelle Peters Slammin' Sam's Charters POW Electric & Repair Klawock, AK
Kurt Whitehead & Trina Nation Treasure Hunter Lodge Klawock, AK	Scott Peakes & Elijah Winrod Northern Spell Lodge Klawock, AK	Josh & Chace Anderson Fireweed Lodge Klawock, AK	Chuck & Jeanette Haydu Kingfisher Lodge & Charters Craig, AK
Ellen Hannan & Brian Castle F/V Renegade Craig, AK	LeRoy & Tanya Johns F/V Chelsea Dawn Klawock, AK	Phillip & Danel Winrod F/V Aurie G Thorne Bay, AK	Spencer & Hannah Richter F/V Resolution Craig, AK
David & Cynthia Egelston Alaska Rainforest Adventures Thorne Bay, AK	DJ & Anne Hansen DJ's Alaska Adventure Rentals Klawock, AK	Shawn & Jill Kato-Yates F/V Nauti Lady Klawock, AK	Kirk & Katie Agnitsch Sure Strike Lodge Craig, AK
Mike & Sarah Warner Coffman Cove Adventures Coffman Cove, AK	Daniel & Emily Peters F/V Sunlight Klawock, AK	Rosey & Lisa Roseland The Salt Shack Thorne Bay, Alaska	Carter & Gretchen Jones Spindrift Adventures Klawock, AK
Jim & Jane Holien F/V Kenai Jane Klawock, AK	James Heppe Jr. Heppe & Sons Construction Klawock, AK	Grace Heppe Heppe's Indoor Edition Klawock, AK	Vaughn & Carrie Skinna F/V Annalyn Klawock, AK
Brad McMillan TTP Director Klawock Cooperative Assoc. Klawock, AK	Melissa LaCour Log Cabin Sports Craig, AK	Sean Tomkinson Passages Alaska Adventure Therapy, Klawock, AK	Jason Clowar/Luther Jenson Adventure AK Southeast Thorne Bay, AK
Don & Teresa Busse Trophy Inn Klawock, AK	Rob & Val Steward Changing Tides Inn Klawock, AK	Mike & Jan Bush B-3 Contractors Inc. Klawock, AK	Mike Hamme Mike Hamme's Quality Carpentry Craig, AK
Mark & Beth Farrar Eagles Wings Wilderness Lodge Klawock, AK	Brian Ringeisen Anglers-Adventures Ketchikan, AK	Ann Williams Klawock, AK	Rich Trojan Trojan & Sons LLC Craig, AK
Sam Sawyer Thorne Bay, AK	Jon & Debbie Winrod Webster Point, AK	Justin Fitch Klawock, AK	Jim Baichtal Thorne Bay, AK
Clay Bezenek Ketchikan, AK	Enoch & Elizabeth Winrod Ketchikan, AK	Kyle Berg & Courtney Nase Ketchikan, AK	Chris Guggenbickler Wrangell, AK
Sherman Whitcomb, AK	John & Sheri Wylie Klawock, AK	Nichole Pope Naukati, AK	Matt & Pam Beck Whale Pass, AK

