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February 1, 1999

Ms. Tomie Lee
Superintendent
Glacier Bay National Park and Preserve
P.O. Box 140
Gustavus, Alaska 99826-0140

Dear Ms. Lee:

The State of Alaska has reviewed the National Park Service's (NPS) proposed rule restricting commercial fishing within the boundaries of Glacier Bay National Park (62 Fed. Reg. 18547, published April 16, 1997). The attached comments address the rule as it was proposed in 1997, and as it has been modified by subsequent legislation enacted on October 21, 1998. These comments also address the Environmental Assessment (EA) published in the spring of 1998 to accompany the 1997 proposed rule. The views in this letter represent the consolidated response of the State's resource agencies.

The length of our comments reflects the fact that NPS has provided little guidance as to precisely which of the proposed regulations may become final and which were made moot by the 1998 legislation. We have considered it prudent to comment on all aspects of the draft regulations that may impinge on commercial fisheries activity in the relevant waters. One reason for our having taken the time to comment on the EA is simply to set the record straight on key issues. Also, it is unclear which portions of the draft EA are pertinent, in view of the 1998 legislation.

The following are our key conclusions and recommendations.

Procedural Requirements

- NPS should publish a new proposed rule that clarifies how the April 1997 rule is modified or superseded by the 1998 Act, and how NPS intends to proceed with implementation.

- The NPS certification of no significant economic impact is unfounded.
- A regulatory flexibility analysis pursuant to the Regulatory Flexibility Act is required.

Underlying Disagreements

- The State asserts ownership and management authority of marine waters with the boundaries of the Glacier Bay National Park.
- The State disagrees with the NPS assertion that commercial fishing has been illegal in Glacier Bay National Park since 1966.

Key Issues

- The 1998 Act ends debate about additional closures and phase outs. Implementation of the 1998 Act should rely on existing state management authorities.
- State management is compatible with and responsive to "*Protection of Park Purposes and Values*".
- The State supports cooperative development of a fisheries management plan, assuming that future NPS rulemaking will provide flexibility to address issues as they may arise, in the context of existing management authorities.
- NPS rulemaking should avoid defining key fishery management guidelines such as the prohibition on "*new or expanded fisheries*" prior to working with the State.
- NPS rulemaking should not restrict the State's ability to manage personal use fisheries nor limit those qualified to participate.
- The State supports implementation of a research program that provides for cooperation in the design of an overall study program that includes research goals and methodologies.
- NPS should not require a federal permit for vessels fishing outside Glacier Bay proper.
- Lifetime access permits should be provided to all those who have historically landed fish in Glacier Bay.
- An affidavit of catch history should be considered sufficient documentation for the purpose of obtaining an access permit.

April 97 Rulemaking Proposals Superseded by the 1998 Act

- 15-year review of fisheries in outer waters
- Consideration of additional restrictions in Lituya and Dundas bays
- Seasonal closures or harvest caps
- Additional halibut closures
- No-take marine reserves

Each of these points is fully described in the accompanying document. We expect there will be continuing dialogue among the NPS, State agencies, and affected interests as implementation of the 1998 Act is further considered. The State looks forward to these discussions and hopes for timely resolution of remaining issues.

The State is committed to working with the NPS to implement applicable laws affecting fisheries in Glacier Bay, as Congress intended. We hope these comments are viewed by the NPS as a constructive step in that direction.

Sincerely,



Sally Gibert
State CSU Coordinator

cc: Honorable Ted Stevens, U.S. Senate
Honorable Frank Murkowski, U.S. Senate
Honorable Don Young, U.S. House of Representatives
Robert Stanton, Director, National Park Service
Robert Barbee, Alaska Regional Director, National Park Service
Frank Rue, Commissioner, Department of Fish and Game
John Shively, Commissioner, Department of Natural Resources
Bruce Botelho, State Attorney General
John Katz, Governor's Washington D.C. Office

February 1, 1999

The State of Alaska's supplemental comments on the National Park Service (NPS) proposed rule at 62 Fed. Reg. 18547, published April 16, 1997; and the accompanying April 1998 the Environmental Assessment (EA).

Organization of Document

Part One:	Background and Context	page 1
Part Two:	Procedural Requirements	page 2
Part Three:	Underlying Disagreements	page 3
Part Four:	Issues Remaining -- All Waters	page 5
Part Five:	Bay Proper Issues	page 11
Part Six:	Issues Superseded by the 1998 Act	page 16
Part Seven:	Regulatory Flexibility Act	page 18
Part Eight:	Additional Economic Relief	page 23
Part Nine:	National Environmental Policy Act Compliance	page 24
Part Ten:	Attachments	page 44

PART ONE: BACKGROUND AND CONTEXT

The most recent chapter in the long history of debate surrounding continued commercial fishing within the boundaries of Glacier Bay National Park began with a stakeholders' workgroup designed to seek common ground. As the workgroup established a functional dialogue and began exploring common understandings, the NPS felt compelled to broaden the public dialogue through a proposed rule (62 Fed. Reg. 18547) originally published on April 16, 1997. Just prior to publication of the proposed rule, the 9th Circuit Court of Appeals issued its opinion in *Alaska Wildlife v Jensen* which affirmed that commercial fishing is not statutorily prohibited except in wilderness areas of the Park.

After the April 1997 rule was published, the workgroup continued to meet under State sponsorship, and the NPS provided informal input. In April 1998 the NPS published an Environmental Assessment (EA) to accompany the 1997 proposed rule. Then, on October 21, 1998, during the continued open comment period on the proposed rule and EA, Congress enacted legislation that addressed commercial fishing activities in Glacier Bay: Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 ("the 1998 Act"), Pub. L. No. 105-277, § 123. This legislation supersedes some elements of the 1997 proposed rule but leaves other elements unresolved. As a result of the 1998 Act, a December 11, 1998 Federal Register notice extended the comment period on the original April 1997 proposed rule to February 1, 1999. On November 10, 1998, and again on December 16, 1998, the State formally requested a new proposed rule responding to the 1998 Act.

PART TWO: PROCEDURAL REQUIREMENTS

The State reiterates its request that NPS publish a new proposed rule to inform the public how NPS proposes to implement the 1998 legislation, thus clarifying what portions of the April 1997 proposed rule are modified or superseded by the 1998 Act. The December 1998 Federal Register notice recognized the need for broad comments:

Section 123 [of the Act] determines by statute several aspects of the NPS's proposed rule, but leaves other aspects open for final rulemaking. . . . All issues raised by the proposed rule not explicitly resolved by Section 123 of the Act are still open for comment. . . . NPS will review all comments received to date on the proposed rule and EA and encourages additional comments in light of the new legislation.

Due to the lack of constructive guidance that a new rule would have provided, these comments address a wide range of issues raised in the preamble and proposed rule, the EA, and the 1998 Act.

We find the EA inadequate for the purposes of analyzing issues and providing supporting information on impacts of management decisions. Our assessment finds the EA also significantly downplays socioeconomic impacts and includes significant misrepresentations and errors of fact. Had the proposed rule gone forward without modification by the 1998 Act, we believe a full EIS would have been required, and may still be required. To the extent the NPS may use or refer to any of the EA data or analysis in future decisions, it must be rewritten.

The State disagrees with the NPS conclusion that the proposed rule does not have a significant economic impact on a substantial number of small businesses, organizations and communities in the Glacier Bay area. We believe an initial regulatory flexibility analysis pursuant to the Regulatory Flexibility Act -- including opportunities for public review and comment-- is required.

PART THREE: UNDERLYING DISAGREEMENTS

Management Authority of Marine Waters

As a preliminary matter, the proposed rule contains several statements with which the State disagrees. Among the most significant of these is NPS' characterization of the marine waters within Glacier Bay National Park as federally owned and regulated.

Alaska previously has asserted its claims to ownership and management of submerged lands and marine waters within the boundaries of the park. See these State comments:

- November 1, 1991, regarding proposed rule published August 5, 1991
- September 8, 1995, regarding draft Vessel Management Plan, EA and proposed rule
- February 2, 1996, regarding proposed navigable waters rule at 60 Fed. Reg. 62233
- April 16, 1996, regarding Vessel Management Plan, Finding of No Significant Impact

Under the constitutional doctrine of equal footing, confirmed by the Submerged Lands Act, the Alaska Statehood Act, and the Alaska Constitution, the State owns and therefore manages all water columns, shorelands, tidelands, and submerged lands, including the resources located within or on such lands and waters.

Pursuant to this responsibility, the State presently manages water uses, access, and activities in marine waters in and adjacent to Glacier Bay, including commercial fishing. The State also works closely with the International Pacific Halibut Commission on halibut management issues.¹ The State's fisheries management process is open to the public, and all interested persons or entities are encouraged to participate before the advisory committees and the Board of Fisheries.

The 1998 Act overcomes some of our jurisdictional concern. NPS may act as provided in the legislation, however it is clear that Congress intended the federal government work directly with the State to successfully address and resolve issues of particular concern through ongoing dialogue and cooperation.

Statutory Prohibition of Commercial Fishing in Glacier Bay

The State disagrees with NPS representations in the proposed rule that commercial fishing has been illegal in Glacier Bay since 1966 and that existing commercial fishing threatens park purposes and values. The 1998 Act appears to set aside these questions by specifically authorizing ongoing fisheries within park boundaries and providing for continuation of fisheries in the outer waters. These issues have ongoing significance, however, and are therefore addressed in these comments.

¹ The State also manages many territorial fisheries under an agreement with the National Marine Fishery Service. The Alaska Department of Fish and Game has a seat on the North Pacific Management Council and the Pacific Salmon Commission, and the State holds a seat on the North Pacific fishery Anadromous Fishery Commission.

As shown in Attachment A in Part Ten, NPS' history of authorizing and acknowledging commercial fishing in Glacier Bay is well-documented. Furthermore, the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), which expanded and redesignated the park, recognized State management of fisheries (Section 1314), the continuation of fisheries activities (Section 1316), and specifically provided for shore based facilities in the preserve (Section 205).

In March 1997, just prior to publication of the proposed rule, the United States Court of Appeals for the Ninth Circuit clarified that commercial fishing in non-wilderness areas of Glacier Bay is not statutorily prohibited (*Alaska Wildlife Alliance v. Jensen*, 108 F.3d 1065 (9th Cir. 1997)). The proposed rule, therefore, improperly suggests that fisheries in and adjacent to Glacier Bay should be closed because ANILCA specifically protected commercial fishing activities in the Dry Bay area of Glacier Bay National Preserve but did not reference such activities in other areas (See ANILCA § 205, 16 U.S.C. § 410hh-4)².

² ANILCA § 205 indeed could not support NPS' assertion. Congress enacted § 205 at the time it created Glacier Bay National Preserve in order to assure continuation of *shore-based* commercial fishing activities occurring in the preserve. Congress therefore specifically referenced continued use of public lands for "campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips, directly incident to the exercise of [valid commercial fishing] rights or privileges." 16 U.S.C. § 410hh-4. Congress did not address preservation of actual fishing operations in this area, nor did it need to, since commercial fisheries in Dry Bay generally occur outside the preserve boundaries and are not subject to any NPS authority. Significant shore-based activities in support of commercial fishing historically did not exist in Glacier Bay National Park. Therefore, Congress had no reason in ANILCA to specifically reference or protect these activities in the park.

PART FOUR: ISSUES REMAINING -- ALL WATERS

Fisheries Closures and Phase Outs Under the 1998 Act

Future rulemaking should clearly recognize the results of the 1998 Act. The definitive closures included in the 1998 Act are clear evidence that additional closures or restrictions on commercial fishing are not envisioned by Congress as either appropriate or necessary, except as implemented through the State's normal regulatory processes.

To summarize, the 1998 Act restricted fisheries in the Bay proper, eliminating some fisheries immediately and phasing out others over the lifetimes of individuals. Fisheries in the Bay to be closed immediately include all fisheries except those for halibut, salmon, and Tanner crab. Closed fisheries therefore include those for Dungeness crab, king crab, groundfish, shrimp, and miscellaneous other sporadic or small-scale fisheries. Areas to be immediately closed to all fisheries include the East Arm of Glacier Bay (except winter chinook troll fishing), the West Arm of Glacier Bay north of 58 degrees 50 minutes north latitude (except winter chinook troll fishing), John Hopkins Inlet, Tarr Inlet, Reid Inlet, and Geikie Inlet. Fishing is also closed in the wilderness areas of the Beardslee Islands and the Hugh Miller Complex. The remaining halibut, salmon, and Tanner crab fisheries in the Bay proper are additionally limited by lifetime access eligibility requirements. This information is also shown in Table 1 in Attachment C.

Continued State Management

The 1998 Act recognized that fisheries in the outer waters and the remaining fisheries in the Bay proper shall continue under the State's management; however NPS has the authority to determine eligibility for commercial fishing in the Bay proper during a lifetime phase-out. We appreciate NPS' confirmation of state management authorities in the December 11, 1998, Federal Register notice, as follows: *"The law provides for the continuation of commercial fishing in the marine waters of Glacier Bay National Park outside of Glacier Bay proper the state would continue its role in management of commercial fisheries and NPS would contribute expertise in protection of park purposes and values;"* We request this confirmation be included in subsequent rulemaking.

We request that future NPS rulemaking clearly define "*protection of park values and purposes*" if any different than already codified as closure authorities and processes in 36 CFR Parts 1-7, as superseded by 36 CFR Part 13 and 43 CFR Part 36 for Alaska parks.

We also suggest subsequent rulemaking recognize the full range of authorities over fisheries in the vicinity of Glacier Bay including International Pacific Halibut Commission, National Marine Fisheries Service, North Pacific Fisheries Management Council, and the Salmon Treaty with Canada.

State Fisheries Management is Compatible with and Responsive to *"Protection of Park Purposes and Values"*

Contrary to implications throughout the proposed rule and EA, the State's process for managing commercial fisheries is science-based, rigorous, and is widely regarded as among the best in the world. There is no evidence of over fishing in Glacier Bay. The Alaska Board of Fisheries utilizes extensive agency and public input in developing conservative management plans for each of the fisheries that emphasize long-term sustainability and conservation. By specifically defining areas open and closed to commercial fishing in the 1998 Act, Congress has addressed consistency of these fisheries with park purposes and values. In addition, state agencies, including the Alaska Department of Fish and Game (ADF&G), recognize the special intrinsic values of Glacier Bay and believe that *"protection of park values and purposes"* as used in the 1998 Act can be fully accomplished under existing commercial fishing management mechanisms.

Attachment B documents the multifaceted conservation strategies currently employed by the State and clarifies apparent misconceptions contained in the EA about the State's management system. State biologists also presented substantial information about management of fisheries in and around Glacier Bay at the NPS sponsored public hearings and the ADF&G-sponsored workgroup sessions in 1997 and 1998. This information is incorporated herein by reference and provides important additional background on Alaska's management program that is not represented in the EA.

The State disagrees with proposed rule and EA assertions and implications that ongoing commercial fishing inherently detracts from Glacier Bay's outstanding recreational and scenic viewing opportunities. Most visitors to the park find that the small scale, family fishing operations, which is exclusively what summer visitors see, adds local personality to their visits. They learn about and enjoy the fishing boats plying the waters.

Cooperative Development of a Management Plan

Section 123(a)(1) of the 1998 Act addressed management of the ongoing fisheries to occur inside the boundaries of Glacier Bay National Park in the following manner:

The Secretary of the Interior and the State of Alaska shall cooperate in the development of a management plan for the regulation of commercial fisheries in Glacier Bay National Park pursuant to existing State and Federal statutes and any applicable international conservation and management treaties.

The State is willing and able to cooperate with NPS pursuant to this Act. The limits and closures established by the 1998 Act appear to satisfy most if not all issues of special concern to the NPS. We are confident there will be few additional issues to address in a management plan.

In the cooperative process, however, the State is not willing or able to concede its fisheries management authority to NPS or other entities, nor did Congress envision such concessions. The Board of Fisheries will continue to adopt management plans for Glacier Bay area fisheries, consistent with other state obligations and agreements. State implementation and enforcement of regulations will continue. Successful implementation of the 1998 Act is therefore dependent upon further improvements in state-federal communication, increased input from NPS to clarify protection of park purposes and values, and increased coordination of research.

"Cooperative management". Congress specifically used the phrase *"cooperate in the development of a management plan"*, rather than *"cooperative management"*. The latter term is used in the NPS proposed rule and has remained in subsequent use by the NPS (e.g. Federal Register notice, dated December 11, 1998; letter from Tomie Lee, dated December 17, 1998.) We see an important distinction. In our view, *"cooperative management"* incorrectly implies a dual management system that would be unwieldy, at best. Cooperative development of a management plan more accurately describes our view of the working relationship between the NPS and the State, utilizing existing State management of commercial fisheries. In comments on the Senate floor reporting the bill, Alaska's Senator Ted Stevens clearly emphasized that the existing management regimes will still manage the fisheries.

NPS role. The proposed rule states that the Secretary would *"cooperatively ensure adherence to the plan under the provisions of 36 CFR 2.3(a) and 13.21(b)."*³ The 1998 Act is not limited to the proposed rule's terms and allows other means of state-federal cooperation. In light of the Act's flexibility on this issue, it would be premature for NPS to promulgate regulations binding it to any particular action without further state-federal dialogue. We also request that rulemaking clarify that the Alaska-specific provisions under 36 CFR Part 13 and 43 CFR Part 36 supercede the closure provisions in 36 CFR Part 2.

Master Memorandum of Understanding. We note that the NPS and ADF&G have a signed Master Memorandum of Understanding (MMOU) (Attachment D) which supports the intent of the 1998 Act. In the MMOU, the NPS specifically commits *"to utilize the State's regulatory process to the maximum extent allowed by Federal law in developing new or modifying existing Federal regulations or proposing changes in existing State regulations governing or affecting the taking of fish and wildlife on Service lands in Alaska."* We request that future rulemaking adopt and reference this and other applicable provisions of the MMOU. If a state regulation appears to conflict with federal law, we also request a written finding to assist state consideration and dialogue.

³ The EA further elaborates that the cooperative fisheries management plan would be "consistent with federal and *non-conflicting* state regulations." EA at 2-4 (emphasis added). This concept of cooperation is not acceptable, and indeed is not "cooperative" at all.

"No New or Expanded Fisheries"

The 1998 Act provides that the management plan for Glacier Bay commercial fisheries is to prohibit "*new or expanded fisheries*." Given the uncertainty as to how NPS interprets these terms, the State requests NPS refrain from adopting regulations that define these terms, or otherwise preclude NPS from exploring this further with the State. We believe, for example, that Congress did not intend to preclude improvement of gear types nor that sporadic fisheries would be considered new or expanding. Future rulemaking should not include a limitation to only "*well-established fisheries and gear types*" as used in the proposed rule **Overview** section of the Preamble. Limits on "*the significant expansion of ongoing fisheries*" as used in the **Overview** also should not be implemented by NPS.

We similarly request that future rulemaking omit reference to continuation of "*commercially viable*" fisheries (from **Overview**). Fisheries are subject to many variables such as abundance, location, weather, market, buyers, and other fisheries. If a fishery is not commercially viable, no one will continue to participate.

Existing state and federal regulatory regimes have adopted management regulations and policies which address expansion of fisheries. For example, we request the Service recognize and defer to the Alaska Board of Fisheries' "Management Plan for High Impact Expanding Fisheries" (5 AAC 39.210). This plan establishes procedures to evaluate changes in harvesting effort, insure resource conservation, minimize impacts on existing uses, and close expanding fisheries. We also request that NPS recognize 5 AAC 39.220, "Policy for the Management of Mixed Stock Salmon Fisheries", that clearly states: ". . . conservation of wild salmon stocks consistent with sustained yield shall be accorded the highest priority." It goes on to state: "Most wild Alaska salmon stocks are fully allocated to fisheries capable of harvesting available surpluses. Consequently, the board will restrict new or expanding mixed stock fisheries unless otherwise provided for by management plans or by application of the board's allocation criteria. Natural fluctuations in the abundance of stocks harvested in a fishery will not be the single factor that identifies a fishery as expanding or new."

The preamble to the April 1997 rulemaking and the EA reflect a poor understanding of fishery management plans already adopted by the Board of Fisheries for the Glacier Bay area and reports provided by ADF&G which document management actions and evaluations for existing fisheries. New and expanded fisheries are already limited under existing mechanisms. In addition to state plans and limitations on fisheries, the State's limited entry program limits the number of participants in most fisheries.

Attachment E contains a partial list of State management plans, policies, and reports which document, direct, and limit fisheries in the vicinity of Glacier Bay National Park, in addition to restrictions on fishermen's participation under the Limited Entry provisions, moratoriums, or permits. See also Part Nine for additional comments regarding "*no new and expanded fisheries*".

Subsistence, Cultural and Personal Use Fisheries

The 1998 Act itself does not address cultural or personal use fisheries in the Glacier Bay area. However, the Manager's Statement attached to the Act indicates that state-authorized and managed personal use fisheries in Glacier Bay are expected to continue. The statement specifically notes that "*local residents in close proximity to the park (e.g. Hoonah) will continue to be allowed to fish for personal use (not barter or sale).*" (Cong. Reg. 10/19/98 H11376).

The State of Alaska manages subsistence and personal use fisheries throughout Southeast Alaska and the state. The State authorizes these fisheries in the waters adjacent to and within Glacier Bay National Park. Subsistence and personal use fisheries have occurred within park boundaries for many years and are not limited to residents of particular communities or areas. Residents of Hoonah are authorized to participate in these fisheries in Glacier Bay, as are residents of other communities. The State supports recognition of Hoonah's special history and uses of Glacier Bay and intends to retain subsistence and personal use fisheries in Glacier Bay for these individuals as well as other local residents who rely on those fisheries to satisfy personal and family needs.

Although we commend NPS intent stated in the proposed rule regarding pursuit of cooperative efforts "*to protect the cultural heritage of the Hoonah Tlingit*" (**Overview**), we have two concerns with the stated direction of this section.

First, the Hoonah Indian Association has very strong historical uses of the Glacier Bay area which appear to be addressed very narrowly compared to what the referenced Government-to-Government agreement would allow. It is not clear what is proposed here to "*allow for - and preserve - cultural activities compatible with park objectives.*" What are the park objectives? Those published in the EA are inconsistent with ANILCA intent that recognizes the continuance of existing human uses of resources as a natural part of the system. We are concerned that needs and desires for historical activities such as harvests in the marine area besides "*a cultural fishery program*" are being ignored. The NPS intent with respect to "*a cultural fishery program*" is also unclear.

Secondly, other local residents such as those in Elfin Cove, Gustavus, Pelican, and Yakutat also have cultural and historical dependence upon the Glacier Bay area, but their interests have not been addressed in the proposed rule or EA. What are the cultural activities the NPS proposes to allow?"

Research

The 1998 Act specifically states that the cooperatively developed management plan "*shall provide for... the opportunity for the study of marine resources.*" The State is committed to fully participating in implementation of this particular clause of the legislation. We

interpret this provision to include the cooperative design of the overall study program, including identification of research goals and methodologies. We further request that implementing regulations provide direction to cooperatively develop a research program that may fulfill either or both state and federal research objectives. Such cooperation is already recognized by the MMOU between the NPS and ADF&G but has been inconsistently applied when respective needs for priority data conflict.

Permits or Other NPS Authorizations

Commercial fisheries occurring outside the Bay proper but within State territorial waters are largely managed pursuant to the State's limited entry program. All vessels must obtain appropriate State permits to engage in this activity. We oppose imposition of additional federal permit requirements for vessels fishing outside the Bay proper, as suggested in the EA. Such requirements would interfere with the State's fisheries management authority and are unnecessary.

We request that future rulemaking clearly confirm that the only restrictions on the fisheries (now protected by the 1998 Act) be through the respective fisheries regulatory agencies' process and not through NPS access permits, other rulemaking such as those which implement the Vessel Management Plan, and/or compendium.

PART FIVE: ISSUES AFFECTING GLACIER BAY PROPER

Lifetime access permit eligibility

The 1998 Act provides that certain commercial fisheries shall be permitted to continue in the nonwilderness waters of Glacier Bay proper for the lifetimes of qualifying individuals. These fisheries include longlining for halibut, trolling for salmon, and pot or ring net fishing for Tanner crab.

We urge use of an efficient and simple approach to establishing access criteria for remaining fisheries in Glacier Bay proper. Specifically,

- all holders of Commercial Entry Permits with a history of fishing the waters of Glacier Bay proper should receive access permits; and
- an affidavit of catch history should be considered sufficient documentation of previous participation, interest in and dependence on the commercial fishery.

We oppose options in the proposed rule such as limiting eligibility to those who have fished 6 out of 10 years, 3 out of 10, and 1 out of the last 10.

The State's proposal would (1) recognize the mutual commitment of state and federal agencies to continued fisheries conservation in Glacier Bay; (2) minimize the economic harm to persons who for various reasons may not have established a regular use pattern in Glacier Bay; (3) minimize the burden to fishermen of documenting many years of fishing activity in Glacier Bay; (4) minimize potential unwanted or unanticipated impacts on Glacier Bay fishery resources; and (5) minimize administrative and legal costs to the State of Alaska and Department of the Interior.

We recommend the NPS request holders of Commercial Fishery Entry permits (including T series, B series, S05, S15 and K series permits) with a history of Tanner crab, salmon, and halibut harvest in Glacier Bay proper, to provide an affidavit stating their history of landings in Glacier Bay proper.

Limiting documentation to an affidavit would reduce potential for substantial fiscal burden resulting from fish ticket search requests. Under this scenario, we would expect NPS to design a validity review and appeals program consistent with due process.

These recommendations are based on the following considerations:

Conservation. Conservation of fish resources in Glacier Bay is the common goal of the Department of the Interior and the State of Alaska. This goal is also implicit in the 1998 Act. Any further limits by the NPS on the number of fishermen eligible to participate in the remaining fisheries is unnecessary to assure conservation management and sustained

yield. As contemplated by Congress, continued state management of fisheries and cooperatively developed research programs can assist achievement of the State's high standards of fisheries conservation. The greatest number of permit holders participate in the salmon troll fisheries, taking small numbers of fish, predominantly in winter, from migrating stocks, none of which spawn in the Park. All commercial fisheries involved in the phase-out exhibit extensive histories of successful resource management.

Avoids burdensome and costly adjudications. Preliminary assessment of fish tickets for Glacier Bay suggest that salmon troll landings are not coded to Glacier Bay proper, but coded to the larger District 114. Depending on eligibility criteria implemented, there could be hundreds of requests for obtaining fish ticket data as well as for correcting fish ticket information, if that source is determined to be a primary auditing tool. This lengthy adjudication process is unnecessarily complicated and disruptive. Such a flood of requests occurred following the Exxon Valdez Oil spill and was extremely costly for the State to administer. ADF&G could easily face additional unbudgeted processing costs of approximately \$50,000 a year for which compensation would be necessary. A similar situation applies to halibut. Halibut fish tickets are collected by ADF&G and forwarded to the International Pacific Halibut Commission for coding and analysis. Before 1994 no coding existed for the newly created IPHC statistical area 184 (which corresponds to Glacier Bay proper). Thus the NPS would have to rely on hundreds of affidavits to verify participation.

Substantially increased fishing effort unlikely. Current fish ticket data do not tell us which fishermen out of a group of qualifying permittees will actually choose to continue to fish in Glacier Bay proper. Based on the State's experience in other fisheries, it is reasonable to assume that any increase in participation in Glacier Bay fisheries would be minor and transitory, and that a progressive decrease in the number of participants would result from retirements or other attrition. The State's permit eligibility proposal would grandfather fishermen who utilize the Glacier Bay area in the normal conduct of their businesses. A normal pattern of usage should be anticipated, diminishing over time, due to the practical aspects of boat size, timing, markets, travel distances, and participation in more than one fishery. More stringent restrictions on eligibility are unnecessary.

Displacement effects. Various projections have been made in the EA about the effects of a reduced number of eligible permittees on the resources and the state's management thereof. These projections appear to be speculative and received no analysis in the EA. It is conceivable that reduced eligibility during the phase out may actually increase the number of eligible fishermen desiring to move from more traditional grounds to the Bay with a net effect of increasing the numbers fishing in the Bay. However, staff with management experience in closing and opening areas and establishing moratoria on permitted fishermen believe that there will not be any major shifts by fishermen because of limitations of vessels themselves, markets, availability of processors, timing of participation in other fisheries, travel distances, and similar considerations. Regardless of the dynamics of fisheries participation, fisheries management throughout Alaska is designed to identify those changes and respond appropriately to assure sustained yield

and meet conservation goals. Better information about resident and transient fish stocks in Glacier Bay, gained through cooperative research relationships with the NPS, may augment the state's efforts in this area.

Minimize impacts on affected individuals. The Dungeness crab closure in Glacier Bay will adversely affect many individuals and small businesses. Participation in the remaining in-bay fisheries can potentially be a significant part of a family's economic recovery strategy. Additional restrictions on eligibility could further disadvantage fishermen already impacted by the legislation.

Conclusions based on continued State management and commitment to cooperative research. If the NPS adopts the State's liberal approach to eligibility, we would anticipate no impacts to the resources themselves, and the least impacts on fishermen, communities, and State management. Based on the State's successful management record, we believe resources will be protected. State management can be further enhanced by additional data when research desired by either agency is designed and conducted cooperatively by NPS and ADF&G. The State welcomes opportunities to conduct such research and particularly welcomes funding and expertise to improve our knowledge of fish populations spending part of their life cycle in the Glacier Bay area. With such a commitment to cooperative research, any concerns managers may have of possible shifting harvest patterns by fishermen during the phase-out period can be detected and assessed to determine if the State needs to change regulations in response to study results. The State welcomes opportunities to cooperatively conduct research studies with the NPS to address their concerns for the resources.

The State presently understands that NPS will issue these permits only to eligible permit holders for harvests of halibut, salmon, and Tanner crab. The State assumes that lifetime eligible fishermen may continue his or her traditional uses of Glacier Bay, including use of the vessel and crew of the permittee's choice.

Dungeness Crab Compensation Issues

The 1998 Act provides for compensation to qualifying individuals engaged in commercial fishing for Dungeness crab in wilderness waters of the Beardslee Islands or Dundas Bay in at least six of the years during the period 1987-1996. Questions remain as to how NPS will implement this provision. The NPS December 11, 1998 Federal Register notice should have been followed by a rulemaking that clarifies the process and standards for eligibility and compensation and minimizes the burden on fishermen. We recognize, however, that rulemaking would be difficult at this late date, and urge NPS to publish a formal rulemaking which clarifies all aspects of its buyout program.

Eligibility. The 1998 Act provides for compensation for those Dungeness crabbers who, before February 1, 1999, submit a sworn and notarized affidavit and other available corroborating documentation to establish participation in commercial fishing for

Dungeness crab in designated wilderness waters of the Beardslee Islands or Dundas Bay in qualifying years. For the reasons stated previously concerning lifetime eligibility in the Bay proper, we urge an affidavit be sufficient to establish qualifications. To require extensive corroborating evidence would impose a significant problem for fishermen and an uncompensated reporting burden on ADF&G. Inherent data reporting limitations will complicate qualification issues due to limitations of data originally collected only for fishery management purposes.

Permit relinquishment. The 1998 Act requires that compensated fishermen relinquish to the State for purposes of retirement any commercial fishing permit for Dungeness crab in Glacier Bay proper. The State understands, however, that the permit relinquishment process is to be achieved contractually between the United States and individual fishermen. The State does not intend to participate actively in this process. Fishermen may contractually agree to relinquish their rights to fish under their permit and may agree to waive rights to renew or seek reinstatement of their permits. This has the effect of a relinquishment.

Compensation calculation. We have little information how NPS intends to proceed with compensation calculation. We note that the 1998 Act provides that eligible fishermen may receive the greater of \$400,000 or the fair market value of the commercial fishing permit, crab pots or gear, a fishing vessel, and the present value of foregone net income from fishing for the six years 1999 - 2004. The present value of foregone income is to be based on the individual's net earnings from the Dungeness crab fishery during the period January 1, 1991 through December 31, 1996.

Senator Stevens has indicated that lost income is "*net after expenses which should be calculated by taking gross receipts and subtracting the cost of insurance, crew, fuel, and bait. Paper losses such as depreciation used for Internal Revenue purposes only, should not be subtracted in calculating net income.*" (144 Cong. Rec. S12741, 12792-93, October 21, 1998).

It is not clear how "fair market value" will be determined "as of the date of relinquishment". Obviously the fair market value of vessels and gear prior to the 1997 rulemaking is going to be different than the value the day before the 1998 Act passed, and different again from the day in the next six months upon which the owner relinquishes the vessel.

In light of the uncertainties concerning NPS' intent, we urge the NPS to be as lenient as possible in implementing this portion of the 1998 Act. The short time period provided for Dungeness crab fishermen to acquire records and present them to NPS, and then for NPS to calculate compensation will create additional burdens for fishermen, the State, and NPS. It is often difficult to separate one fishing permit operation from another by those who participate in more than one fishery. We also note that individuals may not have retained records from before 1995, which would be the last year required for tax purposes. The 1998 Act requires calculation of projected lost income compared to the

1991-1996 base period. Pre-1995 income records will thus be needed but not necessarily available. In their absence, methods to adjust for missing data must be established. We are also concerned that capital items such as vessels and gear are handled fairly. They are normally treated as capital assets held for investment purposes rather than as accounted expenses for "net income."

Safe Harbor

The **Overview** of the 1997 rulemaking states: (b) *Safe Harborage*. *Nothing in this proposed rulemaking, or existing NPS regulations, would affect the ability of fishermen or other vessel operators to seek safe harbor within Glacier Bay under hazardous weather or sea conditions, when experiencing mechanical problems, or in other exigent circumstances.* Although this is in the preamble, it is not reflected in the existing 36 CFR Part 13 regulations; we therefore request its inclusion in future rulemaking.

PART SIX: ISSUES SUPERCEDED BY THE 1998 ACT

15-Year Review in Outer Waters

The 1998 Act provides that commercial fishing shall continue outside of Glacier Bay proper. For this reason, we assume NPS will withdraw the proposed 15-year review provision set forth in the proposed rule. Ongoing review of these fisheries will continue through the state management system with NPS involvement for the protection of park values and purposes. We appreciate that Congress has removed the onerous economic uncertainty for fishermen, processors and communities that accompanied the 15-year review in the proposed rule.

Lituya and Dundas Bays

The 1997 proposed rule requested comments regarding Lituya and Dundas Bays. The State opposes any additional restrictions on fisheries or other activities in these areas and does not believe the 1998 Act allows such restrictions.

Seasonal Closures

The 1997 proposed rule included provisions for identifying a "visitor use season" and adopting seasonal closures on commercial fishing during this period. While the 1998 Act establishes closed areas, it does not provide for seasonal closures or other vessel limitations; nor do we believe such closures or limitations are contemplated or permissible, nor are they needed to protect park values and purposes. The State understands that NPS does not intend to pursue regulatory action concerning seasonal closures. We support this determination and request this be reflected in subsequent rulemaking.

The proposed rule **Overview** discussion states that seasonal closures "*...would also reduce the effect of unlimited numbers of commercial fishing vessels on sensitive park resources.*" In the context of whales, National Marine Fisheries Service studies conclude that there are no sensitive whale resources affected by commercial fishing boats.

Harvest Caps

The State's management regime is flexible and abundance-based. Annual harvest levels of particular stocks may therefore rise or fall depending on that year's abundance. Commercial fishing effort varies greatly by species and gear type, and is dependent upon population cycles, timing, weather, water currents, availability and distance of processors and markets, and other conditions. These are all monitored in-season by ADF&G with closures and openings occurring on an hourly, daily, or weekly basis depending upon the

resources and guidelines within adopted management plans. The State anticipates continuing this management style under the 1998 Act. Imposition of arbitrary harvest caps as suggested by the proposed rule that are based on any given year(s) harvest level is therefore not appropriate or permitted by the 1998 Act. NPS regulations should provide for cooperative dialogue and follow up with the State using the State's regulatory processes in the event that NPS may have future concerns about harvest levels.

Halibut Study

The 1997 proposed rule seeks input on a proposed halibut study to occur in the Bay proper. This study is not well explained in the proposed rule but, as described, suggests that additional closures would be necessary. Halibut studies initiated in past years by NPS and National Biological Survey were not designed cooperatively by halibut managers and knowledgeable scientists. The claimed results were seriously limited, the interpretations appeared biased, and were applied beyond the scope of the data. The State opposes any additional closures in Glacier Bay proper and believes that additional closures are unnecessary pursuant to the 1998 Act. Regarding the research aspect of this proposal, the State encourages joint planning and implementation of any studies occurring in the Bay pursuant to the more progressive research-related language in the 1998 Act. Such cooperative effort is beneficial to NPS, the State, and the public. Cooperative research will improve the quality and credibility of resulting scientific information.

Multi-Agency Dungeness Studies

The 1997 rulemaking includes reference to the ongoing Multi-Agency Dungeness Studies (MADS) project initiated in 1992. We presume this study program will be terminated under the provisions of the 1998 Act. We request, however, that NPS remain flexible in the cooperative design and conduct of future studies as we have noted in our discussion on Research.

Marine Reserves

With the commercial fishery closures established in the 1998 Act, and the ongoing assurance of protection of park purposes and values for remaining fisheries, we assume that there is no further expectations for creation of no-take marine reserves.

PART SEVEN: REGULATORY FLEXIBILITY ACT

The 1997 Federal Register publication concludes that the proposed rule does not have a significant economic impact on a substantial number of small businesses, organizations and communities in the Glacier Bay area. Therefore, NPS did not prepare or publish for comment an initial regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (RFA). The State disagrees with this conclusion, as applied both to the proposed rule and to the proposed rule modified by the 1998 Act. The closures and restrictions at issue are likely to substantially impact small businesses and other entities in the Glacier Bay area and Southeast Alaska. NPS must assess these impacts -- and make its findings available for public review and comment -- before proceeding with a final rule.

An Initial Regulatory Flexibility Analysis is required

The RFA requires agencies to publish an initial regulatory flexibility analysis whenever the Administrative Procedures Act mandates publication of a notice of proposed rulemaking (5 U.S.C.A. § 603(a)). The regulatory flexibility analysis must describe the impact of the proposed rule on small entities, including small businesses, small organizations, and small government jurisdictions. *Id.* It must also describe alternatives to the proposed action which accomplish statutory objectives and minimize significant economic impacts on small entities. This analysis is to be published for public review and comment.

NPS' failure to undertake this analysis may be seen as a presumptive failure to comply with the RFA. See *Southern Offshore Fishing Association v. Daley*, 995 F. Supp. 1411 (M.D. Fla. 1998); *North Carolina Fisheries Association, Inc. v. Daley*, 1997 WL 916347 (E.D.Va.1997).

The Small Business Administration (SBA), which is charged with special authority and oversight of federal agencies' compliance with the RFA, advocates for publication of regulatory flexibility analyses whenever a rule's impact on small business cannot be described as de minimis. It is our understanding that the SBA has reviewed the Glacier Bay rulemaking and concluded that a regulatory flexibility analysis is necessary before NPS may proceed with its rule.

NPS certification of no significant impact is unfounded

NPS' rulemaking certified that the proposed rule will not have a significant economic impact on a substantial number of small entities. It justified this conclusion by stating that the proposed rule "mainly clarifies previously existing statutory and regulatory prohibitions. The expected redistribution of commercial fishing efforts to areas outside

of the park is not expected to significantly affect a substantial number of small businessmen.” 62 Fed.Reg. 18547, 18555 (April 16, 1997).

NPS’ certification of no significant impact is deficient in several ways. First, the conclusory certification does not include an adequate factual basis. Second, NPS fails to provide any analysis to support its conclusion. Lastly, NPS failed to receive public input on its assumptions and conclusions. Federal courts have ruled that such failures are unacceptable under the RFA. See *Southern Offshore Fishing Association*, 995 F. Supp. 1411 (M.D. Fla. 1998); *North Carolina Fisheries Association, Inc.*, 1997 WL 916347 (E.D.Va. 1997).

As noted elsewhere in these comments, the State disputes the conclusion that the proposed rule “merely clarifies” existing fishing prohibitions. Rather than “clarifying,” the proposed rule announced a dramatic change to the status quo that would significantly impact many fishing families, organizations and communities. As the 1998 Act confirms, commercial fishing is not prohibited throughout the Glacier Bay area. Even prior to the Act, commercial fisheries were not prohibited in nonwilderness areas inside park boundaries. As discussed in **Attachment A**, NPS’ history of accommodating ongoing commercial fisheries is well documented. Indeed, the proposed rule was designed to finally resolve inconsistencies in NPS’ statements on commercial fishing.

The State additionally disagrees with NPS’ assumption that displaced fishermen can be redistributed to other areas without significant impact to their economic well being. It does not appear that NPS has undertaken an effort to determine whether this assumption is, in fact, true. NPS similarly failed to assess the impact of its proposed action on small businesses such as fish processors and local communities.

We understand that NPS contracted with Dr. Steve Langdon to study the impacts of the proposed action. In a February 1998 oral presentation, Dr. Langdon reported that his research showed potentially very significant adverse impacts to local fishermen, businesses and communities as a result of the proposed rule. He further reported that many of these entities significantly rely on Glacier Bay area fisheries for their economic and cultural well being. See **Attachment F**: draft Tables III-2, III-3 and III-4, and draft Tables 5 and 6 for illustrations. Other than the brief 1998 oral presentation, NPS has not made Dr. Langdon’s research and findings available to the public, nor has it referenced Dr. Langdon’s conclusions. It is therefore unclear whether and how NPS has incorporated this research in its rulemaking process, particularly in its assessment of economic impacts on small entities.

Proposed rule impacts a substantial number of small entities.

To properly assess the proposed rule’s impacts on small business, NPS must describe how the fishing industry is organized and assess the entities affected by its rule. Neither the proposed rule nor the EA undertake this assessment. The EA does not convey the

complexity of seafood harvesting and processing operations or the number of entities involved in a typical fishing operation.

NPS has acknowledged that fishing entities affected by the proposed rule are “small entities” for purposes of RFA analysis. Affected entities include fishermen foreclosed from fishing in Glacier Bay waters, including fishermen, vessel owners and crew who have relied on Glacier Bay to harvest fish or shellfish, and other fishermen who would be affected by the influx of others displaced from Glacier Bay.

It does not appear that NPS has considered the rule’s impacts on vessel owners or crew members. Many permit holders lease vessels used in their fishing operations. Payments to vessel owners are often made through an agreed share of harvest proceeds. Lost fishing grounds translate into losses to firms that lease vessels, as well as to permit holders. A similar share arrangement exists among crew members and some skippers. During the fishing season a reduction in gross earnings would translate into reduced earnings for crew members.

Local communities and small fish processing entities also are adversely impacted by the proposed rule, and cannot be overlooked in this analysis. See **Attachment G** for social and economic profiles of several communities in the Glacier Bay area. Many processors producing fin fish and shellfish in the vicinity of Glacier Bay and other landing ports such as Petersburg, Sitka, Pelican, Hoonah, and Juneau will experience a direct and uncompensated loss in earnings due to lost access to fish product. Based on information shared with the Glacier Bay workgroup, the two local Dungeness crab processors in Gustavus will probably incur losses requiring them to cease operations. The cost of obtaining product from outside Glacier Bay proper will significantly impact the cost of operations for these small entities. Dungeness crab impacts will be realized particularly in Gustavus, Pelican and Juneau, among other local communities. Tanner crab processing losses would occur primarily in Petersburg and Juneau. Halibut processing impacts are likely to be primarily felt in Juneau, Petersburg, Sitka, Hoonah, Pelican, Excursion Inlet, and other areas in Southeast Alaska. Salmon processing losses could impact operations in Excursion Inlet, Hoonah, Juneau, Pelican, Petersburg and Sitka.

Affected entities are significantly impacted

For fishermen displaced by the proposed rulemaking, there are a number of costs associated with movement into new fishing areas. Since all other fisheries in the region are fully exploited, entry into other fisheries will result in reduced earnings for fishermen in more congested fishing areas, and increased costs for the fishermen displaced from the Glacier Bay area. Additionally, costs of locating fin fish and shellfish populations and learning how to catch them in new areas may be substantial for some fishermen. These costs may be significant enough to force some fishermen out of the industry altogether.

It is reasonable to assume that the majority of displaced fishermen from Glacier Bay will not disseminate widely throughout Southeast Alaska. Due to the small size of their

fishing operations, travel times, and other considerations, the fishermen are likely to remain in the northern part of Southeast Alaska. The increased effort on finite fish resources will tend to result in decreased income for all fishermen in this area.

More concentrated effort also places pressure on fish resources, increases risks of local depletion of fish stocks, and risks reduced long term yield for some species. For example, given recent historical halibut fishery data, the Glacier Bay catch of halibut was approximately 343,000 lbs. in 1996. During the same year Icy Strait had 608,000 lbs. of production. If all harvesters from Glacier Bay were to shift effort into Icy Strait, this statistical area could see as much as a 50% increase in catch. Significant added Icy Strait commercial harvest would place additional pressures on the halibut stock in that area, could have adverse effects on sport fishing opportunity, and may decrease commercial fishing incomes for local fishermen lacking the ability to fish beyond the immediate area.

In addition, displaced fishermen may incur costs associated with the loss of diverse fishing opportunities. These opportunities are important to Glacier Bay area commercial fishing operations. Most Glacier Bay area fishermen are sustained on very low profit margins for each fishery. Fishing entities often rely on several permits and fisheries to remain financially viable. Removal of some fisheries or fishing alternatives may have a significant adverse impact on the financial health of these local operations. This may be especially true for the smallest fishing entities, whose small boats cannot withstand conditions for participation in other fisheries and less protected waters.

Like the fishermen, fish processing operations require diverse opportunities and access to many different species and fisheries to remain financially competitive. The costs of limiting or removing some fisheries can be substantial. These impacts on processing operations should be better assessed before NPS proceeds with future rulemaking.

Commerce department guidelines identify regulatory impacts as significant if they result in a 5% decrease in gross revenues for 20% of the affected entities, or would force 2% of the affected entities to cease operations. *See, e.g.,* 63 Fed. Reg. 55998 (Oct. 20, 1998). In the case of the troll, Tanner crab, and Dungeness crab fisheries conducted in Glacier Bay, an analysis of fish ticket data confirms that total gross earnings of fishing operations that held these permits are far in excess of 5% of their total net earnings or income within these fisheries.

According to gross earnings reports from the Commercial Fishery Entry Commission, fishermen who made landings on Tanner and Dungeness crab permits in Glacier Bay realized over 10% of their average crab earnings from their landings in Glacier Bay statistical areas. This average is estimated from 1987 to 1996. For salmon hand and power troll fisheries, it is not possible to precisely estimate landings on these permits from harvests in Glacier Bay proper using existing fish ticket information, due to the more extensive area incorporated in District 114. For troll operators making landings within District 114, over 10% of their total troll earnings are derived from this area. Sub-districts 114-70 to 114-77 are not coded in fish tickets for the troll fisheries.

Informal assessment indicates that troll fishermen utilizing the sub-districts in Glacier Bay, especially the winter chinook salmon fishery, would be significantly impacted by alternatives outlined in the proposed rule.

Other fisheries that occur within statistical areas 114-70 to 114-77 or that correspond to International Pacific Halibut Commission statistical area 184 may be significantly impacted by the eventual elimination of all fishing in Glacier Bay proper. The IPHC has only coded statistical area 184, corresponding to Glacier Bay proper, since 1994. From 1994-1996, statistical area 184 produced 4% of the total halibut earnings of participating fishermen. Again with respect to average income, and considering the most dependent fishermen, the State is concerned that elimination of fishing privileges could significantly impact statistical area 184 fishermen.

In summary, NPS must assess this and other information relevant to economic impacts on small entities in a regulatory flexibility analysis made available for public review and comment. NPS' current certification of no significant impact lacks an adequate factual basis and factual analysis to support its determination. An initial regulatory flexibility, with public input on agency assumptions and conclusions, would address the factual issues in more depth. The RFA requires this process before NPS may proceed with rulemaking. Additional comments applicable to economic impacts may be found in Part Nine concerning NEPA compliance.

PART EIGHT: ADDITIONAL ECONOMIC RELIEF

Since the 1998 Act was completed, it has become apparent that implementation will result in uncompensated damages beyond what has been suggested by the Glacier Bay EA or implied in the certification of no significant impacts. We further understand that Congress may consider additional monetary compensation to address these impacts to fishermen, seafood processing entities, and communities impacted by the 1998 Act. The commercial fishery has been the only long-term stable economy in much of Southeast Alaska. The closures of fisheries will have ripple effects beyond the immediately affected fishermen to the crew, vessel owners, processors, suppliers, banks, seasonal workers, business sector, and schools funded by fish taxes. The following is a partial list of adversely affected entities and their damages:

- Commercial fishery entry permit holders for affected finfish and shellfish fisheries, including loss of full use of permit, fishing rents, rents for superior skill, and reduction in capital value of gear and vessel;
- Vessel owners (those without entry permits) with reduction in share earnings from lost fishing opportunity in the affected areas, and additional costs associated with crowding and shifting effort on other fisheries;
- Crew members participating in fisheries in the area;
- Seafood processors for shellfish;
- Seafood processors for finfish;
- The State - losses for commercial fish business operators tax revenues;
- Communities – losses for commercial fish business operators tax revenues;
- The State – cost of increased administrative and management burdens;
- Communities – cost of indirect impacts on small firms;
- The State - losses from precluded future fisheries;
- Fishermen who have not made historical landings in Glacier Bay - loss of alternative fishing locations and competition from fishermen displaced from Glacier Bay.

PART NINE: NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE

This section documents the inadequacies of the EA as it applies to the April 1997 proposed rule. As previously stated, the EA is seriously flawed and should not be used as a basis for decision making. We further conclude that an EIS would have been and may still be required given the extent and gravity of impacts of the proposed rule, as well as the level of controversy associated with continued commercial fishing in Glacier Bay. Inadequacies of the document are summarized as follows and are subsequently described in more detail:

- reliance on incorrect assumptions
- failure to use best available data
- failure to adequately address socioeconomic impacts
- impacts of continued commercial fishing are overstated
- impacts of commercial fishing restrictions are understated
- failure to address impacts on local communities, culture and subsistence fishing
- NPS' certification of no significant impact is unfounded

In addition, we note that the 1998 Act essentially defined an alternative which is different than any of the alternatives in the proposed rule or the EA, thus further detracting use of the already-flawed EA from future decision making.

Regarding the specific alternatives in the EA, we appreciate that the 1998 Act has replaced and rendered moot many of the concepts and proposals that the State found objectionable. These include seasonal restrictions during visitor use periods, prohibitions of gear types and fisheries in the phase-out portion of the lower bay as well as the outer waters, and incorrect assertions that continued fisheries would only be managed under an undefined "cooperative fisheries management plan". Each of these issues is addressed elsewhere in this letter.

Reliance on Incorrect Assumptions

The EA does not account for the significant changes to the preferred alternative necessitated by the Appeals Court decision in *Alaska Wildlife Alliance v. Jensen* described earlier and as legislated by Congress in the 1998 Act. In addition, the State disagrees with the erroneous statement that the "no action" alternative would necessitate immediate closure of all commercial fishing within park boundaries. See Part Three and **Attachment A**. This error alone renders the "no action" alternative unreliable and places the entire EA in question.

Failure to Use Best Available Data

The EA failed to properly consider extensive biological or environmental information available from ADF&G on specifics of stock management, population assessment, and in-season management tools. Much of this information was provided to the NPS by ADF&G during work group meetings held over the past several years. We regret that this information was not fully utilized.

In addition, much of the existing socioeconomic analysis generated by Dr. Steve Langdon under contract to the NPS, including that presented at public meetings, does not appear to have been considered. Regarding the Southeast Alaska economy, the data reported on the magnitude and importance of commercial fishing in is in error, and in many cases measures of employment and income are not presented in a consistent manner.

Failure to Adequately Address Socioeconomic Impacts

The socioeconomic effects analysis for each of the alternatives is superficial, at best, rendering conclusions that appear arbitrary and capricious in many instances. See also Part Seven: Regulatory Flexibility Act.

Impacts of Continued Commercial Fishing are Overstated

Many potential impacts of commercial fishing on other resource uses and values are overstated. There is also no attempt to actually identify real impacts of commercial fishing on the stocks harvested. There are no estimates of expected changes in abundance or other population parameters. Thus there is no real measurable goal, making the entire document an exercise in uninformed speculation, not science. The EA implies there are user conflicts between commercial fishing and viewing and recreational visits to the park. As discussed in Part Three, commercial fishing generally does not detract from the park visitor's experience. In addition, the EA downplays or inadequately characterizes the success of fishery management under state jurisdiction and the healthy status of existing fisheries. There is also a misleading implication that commercial fishing removes so much biomass that there are significant impacts of virtually every fishery on ecological processes. There is little evidence for this view. It appears the EA has used speculative and poorly documented concerns to justify unstated park management objectives.

Impacts of Commercial Fishing Restrictions are Understated

The extent and range of social and economic impacts that could occur to these communities and individuals has been significantly under reported. Existing Glacier Bay fisheries can be described as small-scale fishing operations that are mostly family owned and operated businesses upon which nearby small rural communities are highly dependent for their seasonal cash economy. The small scale of this economic mix leaves affected communities highly vulnerable to major changes in a dominant portion of the economy. According to the 1998 Alaska Department of Community and Regional Affairs

Community database, commercial fishing is one of the largest private employers in Gustavus, with 38 residents holding commercial fishing permits. The EA inappropriately implies that commercial fishing is not an important component of the community. See **Attachment G** for additional community profile information. See also Part Seven: Regulatory Flexibility Act.

The section on communities of SE Alaska also excludes important facts relative to the phase-out alternatives. The EA fails to discuss the high level of unemployment and under-employment within nearly all of the communities around Glacier Bay. Unemployment directly impacts availability of alternative occupations for displaced commercial fishermen, processing workers, crew members, and persons from the support sectors of each community impacted by the proposed regulations.

The impact analysis section on each of the communities downplays the indirect effects of commercial fishing to the economy of larger communities in the region. For example, while Juneau is portrayed as having little direct impact from reduced commercial fishing in Glacier Bay, it is an important service supplier to the commercial fishing industry. Many northern Southeast fishermen buy supplies or have part time lodgings in Juneau.

Failure to Address Impacts on Local Communities, Culture and Subsistence Fishing

The EA alludes to the fact that effects on the cultural and subsistence activities of local residents may exist, but does not attempt to analyze these effects. The EA should provide a better description of both the existing and historic subsistence and personal use fisheries by local communities and a thorough assessment of the impacts of eliminating these historical uses. Theodore Catton's 1995 administrative history of the park (cited in the EA's bibliography), Dr. Langdon's recent work, and the extensive records from public meetings provide sufficient information on this issue.

Much of the information in these sections of the EA appears to come from the Department of Community and Regional Affairs community database reports. These sources should be specifically cited.

NPS' certification of no significant impact is unfounded

As previously discussed in Part Nine, the State does not agree with NPS' conclusion that implementation of the proposed rule would have no significant impact. Due to the flawed assumptions and inadequate analysis summarized above, the NPS cannot justifiably conclude the proposed rule would have "*no significant impact*". Furthermore, the NPS has not conducted the required analysis pursuant to the Regulatory Flexibility Act. These issues are discussed in greater detail in Part Seven.

PAGE-SPECIFIC COMMENTS

Chapter 1

Purpose and Need. Surprisingly, there is no discussion or even recognition of disputed claims over jurisdiction over submerged lands, waters, and commercial fisheries in Glacier Bay.

Pages 1-3: Objectives listed on page 1-3 do not match with objectives listed in other sections of EA.

Page 1-4 and 1-5 incorrectly cites ANILCA requirements for management planning and purposes of the unit contained in Sections 201 and 1301.

Page 1-7. We question the derivation of the “new mission statement” as it is inappropriate if over turns terms of ANILCA, particularly the legislated directions for making management determinations adopted in plans through the public process for plans and their revisions required by ANILCA sec 1301.

Page 1-9. The State provided extensive comments on the Vessel Management Plan and associated rulemaking that were not addressed by the NPS. We, therefore, incorporate by reference previous State comments as they apply to this portion of the EA.

Page 1-13, Potential Effects on Commercial Fisheries: The EA fails to fully address the effects of the closures with respect to reduced harvests, longer distances to processors, and more competition on other areas. These impacts could in turn force additional commercial fishermen who are excluded from Glacier Bay to either move their residence or go out of business.

Page 1-14: Concern over marine mammal disturbance, collision and petroleum emissions by commercial vessels appears overstated in light of the potential for these impacts by the cruise ship industry which was recently increased. Commercial fishing vessels may cause less disturbance to marine mammals because they are not entering the park with the goal of viewing marine mammals. They are also generally slower moving vessels that travel mid-channel. The NMFS has concluded that commercial fishing activities and vessels do not appear to disturb whales.

Page 1-5; and Subsistence Activities, Page 1-19: The EA incorrectly states that subsistence is not authorized; ANILCA only precluded subsistence hunting in the park. The State asserts subsistence fishing is allowed in the waters.

Sport Fishing, Page 1-19: The EA states: *“The NPS recognizes that sport fishing is a resource issue closely related to commercial fishing, and that the public has concerns related to sport fishing. The NPS is interested in reducing the effects of sport fishing and*

in recent years has initiated a program to begin quantifying those effects.” This illustrates an unstated and inappropriate objective to reduce or eliminate sport fishing based on speculative impacts we believe are unfounded.

The EA is generally deficient in not properly taking the full scope of intended actions regarding all harvesting into account. The preferred alternative too narrowly addresses closure of commercial fisheries and ignores the potential for shifts among commercial, recreational, charter boat and personal use fisheries, particularly rockfish, halibut, lingcod, and salmon. The NPS should present a more thorough analysis of these probable effects.

Chapter 2: Description of the Alternatives

Elements Common to all Action Alternatives, Page 2-1: See Part Four comments on *“new and expanding fisheries.”* We also note disagreement with any residual intent to limit gear types (except as specifically legislated) to those *“historically prevalent in park waters.”* Gear types evolve and improve. Based on historic records, it would be difficult to show what gear types have been *“prevalent”* in park waters.

Throughout the EA, NPS appears to focus on what it considers to be traditional fisheries. There is no recognition, and in fact an apparent intent to prohibit without impact assessment, harvest of species that have been limited or sporadic (e.g., sea urchins, clams, sea cucumbers). These are not new fisheries. Assessment of these fisheries in the EA is noticeably missing in most sections. For example, the Board of Fisheries has adopted a management plan for commercial cucumber fishing (5 AAC 38.140(k)(13), in which the Board has closed the waters of Torch Bay north of the latitude of the southernmost point of Venisa Point to commercial fishing of cucumbers. This is one of 13 areas closed as part of the management plan. Other commercial, albeit small, fisheries known to have occurred historically include urchins, geoducks, and abalone.

Page 2-1: The list of *“certain actions would be implemented under each alternative”* incorrectly references the 1983 regulations cooperatively developed by the National Marine Fisheries Service with the NPS and the State to protect whales. Subsequent to Endangered Species Act regulations, the NMFS determined that the shrimp closures were unnecessary and unrelated to the status of the whales. The State kept the shrimp fishery open as a result and the Park Service refused to drop this regulation. Eventually so as not to implicate a commercial fisherman with conflicting federal and state regulations, the state closed the fishery despite no conservation need or justification for protection of whales.

While the Alaska pink shrimp (*Pandalus eous*) is important in the diet of the humpback whale; the primary species targeted by the commercial pot shrimp fishery in Glacier Bay adjacent and outer coast waters is the coonstripe shrimp (*Pandalus hypsinotus*), a primarily benthic species, not a common humpback whale prey species.

Alternative 1, Proposed Action

Page 2-4: There is no biological basis for proposing to authorize halibut longlining in outer waters while jigging for lingcod is proposed to cease. We object to restriction of these fisheries or gear types outside the Board of Fisheries process. Perhaps the authors are unaware that bycatch is a major feature in the halibut fishery, but not for lingcod.

Consistent with comments in Parts Three and Four, we note that commercial fisheries will continue under the present state and federal regulatory regimes.

The EA also fails to identify what federal regulations and “*non-conflicting state regulations*” the proposed management plan would be based upon.

Page 2-2 through 2-7: One of two objectives for the proposed rule includes “*reduce conflicts between commercial fishing activities and the recreational opportunities provided by the national park, while providing some continued fishing opportunities in the outer waters.*” Significant conflicts between commercial fishing activities and recreational users are not documented here, and we are not aware of such conflicts. As previously stated, most visitors react positively to the presence of fishing vessels.

The other listed objective is to “*enhance protection of the park’s ecological resources.*” No documentation is provided throughout the EA or public testimony that the park’s resources are being damaged by commercial fisheries and thus in need of additional protection. Hypothetical impacts raised in the EA are based on management practices that no longer exist under State of Alaska, International Pacific Halibut Commission, North Pacific Fisheries Management Council, nor National Marine Fisheries Service regimes. NPS has not shown evidence that closure of the commercial fisheries on fish stocks which migrate through park waters would affect ecological resources of the park. It appears, therefore, that the underlying rationale for these objectives is based on unstated intent. The EA should be forthcoming about such unspoken intent.

Page 2-5. The EA identifies additional management objectives specific to the outer waters as: “*limits on the significant expansion of ongoing fisheries; protection of resident and sensitive fish species, including salmonid populations that spawn within the park; protection of other park wildlife and resources; and minimization of conflicts with visitor use.*” These objectives are based on unstated intent and lack criteria to implement.

The EA states: “*Where NPS management objectives are not met under cooperative state/federal management, the secretary of the interior could close or modify ongoing fisheries to protect park purposes and values.*” The Service needs to define both its management objectives, criteria, and “*park purposes and values*”, including the threshold under which a threat to park purposes and values would trigger an attempt to usurp state fisheries management, i.e. if the Secretary of the Interior decides to “*to close or modify ongoing fisheries.*” The park purposes for Glacier Bay laid out in Title II of ANILCA

contain none that would necessitate oversight of the respective state and federal fisheries managers.

Research, Page 2-5: *“The NPS would continue and initiate fisheries research within Glacier Bay National Park, including studies of the relationship of fisheries to park resources. For comparative study purposes, research projects may require closures of specific portions of the park’s marine waters to fishing.”* We object to lack of recognition of cooperation with ADF&G and intent to close existing fishing areas to meet research needs that have not been cooperatively developed. We appreciate the recognition of cooperative research in the 1998 Act which supercedes this intent.

Page 2-7: Only one community is highlighted as having sufficient potential socio-economic fallout to be included in any mitigating measures. Other local communities such as Elfin Cove, Gustavus, Pelican, and Yakutat merit a similar approach.

Chapter 3: Affected Environment

Commercial Fisheries, Page 3-3. State fisheries are managed by ADF&G; the Alaska Board of Fisheries determines allocation. The last paragraph foresees difficulty in determining permit eligibility.

Regarding the third paragraph of this section, we object to the representation that the state’s fish ticket harvest reporting system has *“two inherent problems”* which *“limit the assessment of amount and location of harvest for some fisheries.”* The State of Alaska has established statistical reporting units based on features of the fisheries, not political boundaries. The State of Alaska has not required separate statistics for Glacier Bay. Notably, salmon are for the most part simply migrating through these waters. It is not necessary for rational and effective salmon management that statistics be kept in smaller units. Especially in light of the 1998 Act which resolves numerous issues, we believe this “problem” is overstated.

It is also apparent there is insufficient understanding of the State’s statistical reporting units as illustrated by routine incorrect references to our “Districts”, which are laid out in regulation, and “statistical areas”. This chronic error renders the NPS analysis of impacts and affected fisheries questionable. The EA also overstates mostly insignificant problems that the updating and corrections to the state’s database creates for their analysis of actual landings in various small areas with the area of the park.

Tanner Crab Pot and Ring Net Fishery, Page 3-4: Management is not *“by major fishing grounds”* as the Service states but is a limited entry fishery managed regionally (Southeast Alaska as a whole). The major grounds are correctly identified. Seasons are regulatory time periods when openings may occur. The Tanner seasons occur from Jan 15 – May 1 and Feb 15 – May 1 (depending on area as correctly stated), but the EA fails

to note that the fishery openings are short within these seasons. The harvest ceiling is not a guideline harvest level (GHLs are simply guidelines, the ceiling is a cap).

King Crab Pot Fishery, Page 3-6: Pot limits are 20 to 50 (see Table 3.1 footnote). Stock assessment surveys for red king crabs in Southeast Alaska are not considered "*preliminary*". They are an integral part of the State's management program.

Table 3.1, Page 3-10: DSR NSEI GHL is 110,000 round lb. (not 132,000 dressed lbs) in the directed fishery.

King Crab Pot Fishery, Harvest, Page 3-11. The narrative on king crab harvests is confusing (pounds in sentences 1 and 2 of paragraph 3 don't agree). The gist is that more goldens are harvested than reds and blues, and most of this comes from Icy Strait.

Dungeness Crab Pot Fishery, Harvest, Page 3-13: Average annual harvests for the bay proper and Icy Strait are 112,000 and 140,000 (as reported on p. 15); reported amounts on page 13 of 2.9 and 3.6 million pounds, respectively, are totals across the 1969/70 to 1994/95 seasons per ADF&G (1996).

Weathervane Scallop Dredge Fishery, Management, Page 3-17. In the first paragraph, the third sentence is somewhat misleading. It should be corrected to reflect that in addition to Yakutat and Kodiak, scallop harvests have been taken in northern Southeast Alaska, Kayak Island (southeast of Prince William Sound), Cook Inlet (Kamishak Bay), Alaska Peninsula, Dutch Harbor, Adak, and Bering Sea. Among these, areas of largest recent harvests are Yakutat, Kodiak, and Bering Sea.

In the first paragraph, fourth sentence, the citation of NMFS et. al. (1996) doesn't match NMFS et. al. (1996a) in the literature cited section on Bibliography page 20. Regardless, the proper citation should probably be NPFMC (1996)--the North Pacific Fishery Management Council (1996) as the management plan is published by NPFMC and written by agency staff who are members of the NPFMC scallop plan team.

In the second paragraph, fourth sentence, the reference to two fishing seasons is misleading. Any one area has only one fishing season per year. Also, it is true that the season remains open "until closed by emergency order"—because that is the tool that is used to close fisheries, not because there is an emergency. A more accurate statement would be that the season remains open "until the annual scallop catch quota or crab bycatch caps are reached at which time the fishery is closed by emergency order."

Shrimp Pot Fishery, Management, Page 3-19: This description of the pot shrimp fishery in southeast Alaska is too general, biased in its representation of historical fisheries, and gives an inaccurate impression of the pot shrimp fishery in the waters of Glacier Bay and adjacent waters. A more accurate discussion confined to Districts 14 and 16 should replace this description.

Page 3-20: The pot shrimp fishery in Glacier Bay and adjoining waters targets primarily coonstripe shrimp. Spot shrimp are a very small proportion of the harvest of Districts 14 and 16. District 16 also includes Lituya Bay.

Page 3-22: There is insufficient stock assessment information to justify describing the pot shrimp fishery in Districts 14 and 16 as underexploited. However, the intention of the ADF&G and the Board of Fisheries in setting the upper end of the guideline harvest levels at 20,000 lb each for Districts 14 and 16 was to provide conservative harvests in the absence of stock abundance information.

Pacific Salmon Troll Fishery, Management, Page 3-22: In the first paragraph, the EA incorrectly cites the ADF&G report for 1996 harvests. Nowhere does the report state that "*Trollers harvested 67% of chinook and 60% of coho salmon in the Southeast Alaska region in 1996*". According to the report, trollers actually harvested 65.1% of all commercially caught chinook and 64% of the commercial catch of coho. The commercial fishery reports do not report on the sport fishery catches.

Page 3-26: The first paragraph is incorrect in that most of the troll effort does not occur in Icy Strait during the winter fishery.

The second paragraph states that a third of the Cross Sound harvest area is within the Park; however, very little of the catch actually comes from the portion of the Sound within park boundaries.

The third paragraph is mostly incorrect and strongly infers a lack of attention by managers to assure the sustainability of chinook occurring in mixed stock fisheries occurring during the summer season. The following is a more accurate portrayal of this fishery: "The summer season is July 1 through September 20 and targets primarily coho and chinook salmon. The management plan calls for harvesting 70% of the remaining quota of chinook salmon during an opening beginning July 1. Following the closure of the first summer chinook opening, the areas of high chinook salmon abundance are closed to trolling. If approximately 70% or more of the remaining chinook salmon abundance was taken during the initial opening, the areas of high chinook salmon abundance will remain closed for the season."

The fourth paragraph needs to clarify that the waters of Dundas Bay are closed simply because ADF&G closes the heads of most bays. There is no other significance to this closure.

Paragraph five should be corrected to recognize that the Alaska Board of Fisheries determines locations of the total number of chinook between user groups. The source and years is not provided of the 10% reportedly taken in the vicinity of the park, thus cannot be verified, and incorrectly identifies Districts 114 and 116 as statistical areas. The first sentence is an inaccurate portrayal of which agencies allocate which portions of the troll catches and thus should be rewritten as follows:

“The total quota for the Southeast Alaska chinook fishery is set by agreement within the Pacific Salmon Commission, or when there is no agreement, is specified by the United States ‘Letter of Agreement Regarding an Abundance-Based Approach to managing Chinook Salmon Fisheries in Southeast Alaska. June 24, 1996’”.

Troll Fishery, Harvest, Page 3-28: The second sentence of the first paragraph incorrectly implies that most of the troll fishery occurs in the park claimed boundaries. The majority of the fishery takes place south of this area.

The second paragraph reflects confusion. District 116 is wholly within the water claimed by the park, as the State claims jurisdiction of waters out to only 3 miles. Districts 156 and 157 are seaward of District 116. We have data for those districts, so we have difficulty determining what the 90% to 99% statistic from Taylor and Perry references.

Troll Fishery, Participation, Page 3-28: The first paragraph again incorrectly refers to the districts as statistical areas.

Excursion Inlet Purse Seine Fishery, Pages 3-29 through 3-33. Park boundaries bisect Excursion Inlet, thus the fishery occurs both inside and outside park boundaries in the inlet and south to the northern tip of Porpoise Island. A substantial, but unknown, proportion of the harvest at Excursion Inlet occurs outside the boundaries of the park. Additionally, openings of short duration (3 to 15 hours) occasionally occur in August south to the southernmost tip of Porpoise Islands in conjunction with openings inside Excursion Inlet to harvest pink salmon surplus to escapement needs, primarily from streams along the Homeshore south of Excursion Inlet.

Groundfish Dinglebar and Longline Fisheries, Management, Page 3-36: A more complete definition of groundfish should be included. See State of Alaska groundfish regulation book. Most of Icy Strait is not within the boundary of the park and, therefore, the NPS can't really infer how many of the groundfish landings came from "park waters".

Yelloweye are not the most common rockfish in Southeast. They are the dominant species in the directed DSR fishery by weight.

Lingcod, Page 3-41: The statement explaining recent increase in catches on the outer coast: “*This may perhaps be explained by the inability of some groundfish fishers to successfully procure Pacific halibut IFQ. . . .*” is speculative and without apparent purpose in the EA. It is illegal to target lingcod with longline gear (despite the incorrectly paraphrased information cited as pers. comm. from D. Ogilvie).

Rockfish, Page 3-41: Pelagic Shelf Rockfish no longer includes Black Rockfish. The last sentence on this page refers to the abundance of rockfish. In the absence of stock assessment information for the Glacier Bay area, what is the source of this information?

Sablefish, Page 3-43: Since 1996, it has been illegal to retain a bycatch of sablefish in the outer coastal waters within the boundaries of Glacier Bay. The only legal removals are from the Northern Southeast Inside (NSEI) subdistrict limited entry fishery for sablefish. Removals from so-called "park waters" by permit holders are negligible.

Tanner crab, Page 3-44: Technically, *C. bairdi* is the only commonly exploited Tanner crab in the area. Two other species, *C. Tanneri* and *C. angulatus*, are commercially exploited species of Tanner crab south of the Aleutians. Harvests are by permit, are small in volume, and must occur in waters deeper than 200 fathoms.

Dungeness crab, Page 3-49: No information is given on timing of mating or molting, which are important constraints in setting fishing seasons. No indication is made of the extreme levels of predation by sea otters, which may eclipse commercial fishing harvests in the near future, as has happened elsewhere in Alaska.

Pacific Salmon (*Oncorhynchus* species), Distribution, Page 3-53: Paragraph three should clarify that stream-type chinook are by far the majority. They require suitable riverine habitat to rear successfully.

Life History, Page 3-54: In paragraph 3, we surmise the timing of mean spawning can be highly variable compared to the "run" timing.

Non-commercial Marine Species, Page 3-61 to 63: The discussion of trophic relations is simplistically qualitative and of little use in evaluating alternatives.

Hoonah, Page 3-96: Paragraph 2 states that Hoonah-based purse seiners operate primarily in waters far to the north and west of Icy Strait. This is not true. No purse seining occurs to the north of Icy Strait in Southeast Alaska. Rather, these boats fish throughout the region but tend to concentrate in waters of Chatham Strait and the southeastern shore of Icy Strait when these areas are open to fishing.

Chapter 4: Environmental Consequences

Pages 4-A-1 through 37: This section constitutes an unnecessarily negative representation of human activities which have occurred since long before creation of the park and which continue in a responsible and conservative manner. Commercial fisheries can indeed change some characteristics of a given population, but such possibilities are carefully assessed to assure sustained yield of healthy, biologically sound populations consistent with the State of Alaska's constitutional mandate. The tone implies the NPS would prefer to stop all harvests of all species that might occur near the park. Unless a population is completely enclosed in a no-take area within park boundaries, that population will be affected by a fishery somewhere, sometime during its life cycle. The

EA's apparent bias opposing any harvest of fish and misrepresentations of existing fisheries is irresponsible.

General Effects on Water Quality, Page 4-A-1: The general effect of commercial fishing and oil spills is overstated and taken out of context. The primary threat from oil spills is from the large cruise ships. There is no relevance drawn of possible impacts of commercial fishing in terms of vessels, oils, etc., in relation to similar concerns for recreational boats, charter boats, or cruise ships.

General Effects on Commercially Harvested Marine Species, Pages 4-A-2 through 4-A-13: Contrary to the assertion that a natural population is an unfished population, ANILCA specifically recognized humans as a part of the natural ecosystem. Man has been harvesting resources in the area of the park for thousands of years, including commercial fisheries for over 100 years. In the natural world, populations often grow to a level that is unsustainable, causing collapse in both prey or forage and predator species. The EA paints a picture of a mythical steady state where, in fact, wide fluctuations in abundance have historically been observed.

Additionally, the third paragraph contains an archaic view of a "balanced" population, where temporary environmental effects cause populations to fluctuate above the carrying capacity. There is little basis for this view for many commercially harvested species. For Glacier Bay in particular, with rapid glacial retreat and the recent establishment of sea otters, long-term dramatic change is the rule rather than the exception.

Consistent with the state constitution and statutes, the Department manages fisheries based on sustained yield, not optimum yield or other goals described. Further, the State typically does not base management on "projections" as indicated in the EA. This section, including descriptions of how the state manages commercial fisheries, is superficial and illustrates a lack of understanding about the state's management program.

Page 4-A-3 is an example of this lack of understanding: "*The Alaska Department of Fish and Game manages all the fisheries of Southeast Alaska, including those in Glacier Bay National Park, on a projected optimum yield basis. Permits and harvest quotas are regulated annually to achieve desired harvest levels.*" The paragraph goes on to incorrectly and repeatedly discuss management for "optimum harvest" and "optimum yield". The State of Alaska manages for a "*sustained yield*" as required by the state constitution. In practice, sustained yield is a varying harvest level, below maximum sustained yield and optimum yield. We also do not regulate permits and harvest quotas to achieve a desired harvest level in any salmon fishery. We use time and area as management tools to assure sustainability of the populations. We also use limited entry as a way to control effort in many, if not most, of our commercial fisheries.

Page 4-A-3 also fails to convey that a population's reproductive success is often enhanced, not diminished, by removing a portion of the population, thus intra-specific

competition is reduced. This is one primary biological mechanism that often provides for surplus production.

Page 4-A-4: The discussion of genetic changes and their significance are speculative and not supported by any data or relevant references.

Page 4-A-4 statements include some concepts that should be used throughout this section of the EA regarding the effects of fisheries, instead of those referenced in the paragraphs above. The first full paragraph states: "*Because salmon are short-lived and reproduce only once, the maximum level of sustained harvest will occur with only a slight reduction in the overall population biomass from that of an unexploited population.*" What this says is that the effect of a properly managed fishery will be small on the population. For example, data that ADF&G provided on coho suggest that, with that low of an exploitation rate, the differences between the exploited and unexploited populations would be indistinguishable. This concept needs to be combined with statements in the first paragraph under "Affects on Migratory Stocks": "*The park represents only a portion of habitat used for those species that migrate during their life cycles. For these species, regardless of the level of protection provided in park boundaries, natural abundance and age distribution of the population may be changed by harvest elsewhere. This effect will be most pronounced in salmon populations (but would also occur in other fish species including Pacific cod and sablefish) as these species are highly migratory and may just pass through park waters.*" Of course, migratory halibut should also be included in this category.

Stock sensitivity and distributional limits (crab), Page 4-A-5: Depressed stock conditions on the outer coast may reflect oceanic based recruitment, which is apparently more variable than recruitment in inside waters of Southeast Alaska.

General effects of biomass removal, p. 4-A-6: It is highly speculative rather than scientific to state the expectation that the amount of biomass removal of crab from park waters "*greatly alters the natural ecological relationships of the marine benthic communities.*" There is no scientific basis for this statement.

Tanner crab, Page 4-A-6: The EA cites Woodby (1994) regarding harvest levels; however, the harvest rates in that reference apply to red king crab, not Tanner crab.

King crab, Page 4-A-7: Golden king crab experienced a significant recruitment event in 1998. The statement that "*king crab are least able to withstand liberal harvest policies*" is made without comparison; presumably the EA is comparing king crab to Dungeness and Tanner crabs. The harvest policy for king crabs in SE Alaska is very conservative, so it is unclear why the EA refers to liberal harvest policies and what relevance this has.

Shrimp, Page 4-A-7: The primary pandalid shrimp species harvested in Districts 14 and 16 is coonstripe shrimp (*P. hypsinotus*), not spot shrimp (*P. platyceros*). There is very

little known of the life history of coonstripe shrimp. Its distribution in park waters is very patchy. The population genetic exchange in southeast Alaska remains uninvestigated for this species.

Guideline harvest levels for pot caught shrimp in districts near Glacier Bay were not simply “*set arbitrarily*” as indicated here, but were set at a low level after reviewing catch statistics in the absence of information on stock size to promote conservative and sustainable fishery.

Species Effects, Weathervane Scallops, Pages 4-A-7 through 4-A-8: On page 4-A-8, the second full paragraph is misleading. The statements about “*recent*” growth of the fishery are now outdated and do not reflect state and federal management actions taken in response to a problem which occurred in the early 1990s. Statewide the fishery grew from 340,000-683,000 pounds of shucked meats per year during 1985-1989 to 1.2-1.8 million pounds during 1990-1994. (Note part of the increase was attributable to a brand new fishery in the Bering Sea which was previously unfished.)

The growth of this fishery, reported by Shirley and Kruse (1995), led to the development and implementation of a state comprehensive fishery management plan by the Alaska Board of Fisheries in 1994 (Kruse 1994). Since then, a federal fishery management plan has been approved, and an amendment to the plan which redefines overfishing, maximum sustained yield (MSY), and optimum yield (OY) was reviewed by the public and adopted by the Secretary of Commerce in 1998. Statewide scallop landings totaled only 243,000 pounds in 1995, 732,000 pounds in 1996, and 786,043 pounds in 1997. Thus, the growth of the fishery has been stopped by state and federal management plans; indeed recently catches have been cut to less than half of the 1.8 million pound peak. The new statewide harvest cap for all areas is 1.24 million pounds.

Harvests in all areas are constrained by area-specific catch quotas and bycatch caps. The harvest quota for District 16 is 0-35,000 pounds; this quota is widely regarded to be conservative. This paragraph should be revised to reflect the implementation of these conservative harvest strategies. Nonetheless, the possibility of localized depletion still exists, but the State of Alaska has implemented a mandatory observer program on all scallop vessels as a management tool to safeguard against this outcome. For instance, shifts to younger ages and declining CPUE in District 16 would provide justification to area managers to set the quota toward the lower end of the 0-35,000 pound harvest range.

Species Effects, Pacific Salmon, Page 4-A-8: The statement “*Continued harvest would affect park stocks more than non-park stocks*” makes no sense. Continued harvest has minimal effects on any stocks if managed as currently is managed by the state. Furthermore, we are uncertain what the EA defines as “*park stocks*”. There are few salmon which spawn within the park; most are migratory, spawning over a wide area.

Harvest of Park vs. Non-Park Stocks, Page 4-A-9: This paragraph is a real stretch of hypothesis and assumptions for an area which has few spawning salmon within the park

uplands due to the recent geologic changes and retreat of the glaciers. The last sentence implies that continuing commercial harvests in the area or on stocks bound for park lands is having ecological consequences, reducing opportunities for fish to “found new runs through straying and colonizing streams.” Commercial fishing has occurred in the area for over 100 years, and it’s obvious that fish have strayed and colonized even with the present level of commercial fishing.

Potential Overharvest of Park Stocks, Page 4-A-9: In the first paragraph, the authors misrepresent ADF&G’s data indicating that if Berners River fish returned at the same time and through the same area, then a 17% exploitation rate would be allowed. The actual exploitation rate on this stock has been around 60-70%. The argument about small populations is probably moot.

Similar confusion exists in the second paragraph: “*to achieve annual harvest quotas*”. ADF&G manages for sustained yield, regulating harvests to obtain escapement goals. Also in this paragraph, the last sentence has no basis (and makes no sense) in determining “*the overall ecological consequences of continued adult harvest would be greater.*”

Pacific Cod, Page 4-A-11 to 12: The majority of cod harvest is from outside park boundaries. The situation for Pacific cod is similar to that for sablefish in that they are wide-ranging fish with only small catches in “park waters”, and therefore are not likely to be greatly affected.

The assumption that declining catch levels of Pacific cod in Icy Strait is symptomatic of declining stocks is without merit. The reason catches declined is that the market was weak and the prices low in Southeast Alaska (Pacific cod were readily available in the westward Alaska region).

There is little basis for stating that “*local populations of Pacific cod in Icy Strait/Cross Sound will undoubtedly continue to experience strong fishing pressure under the existing management regime.*” First, the Eastern Gulf of Alaska cod quota is rarely taken. Given that cod move freely and that they are potentially one large stock, the fishing pressure cannot be described as strong. Second, fishing pressure is not a function of management alone; in this case market forces are strongly at play, particularly with competition from fishermen to the west forcing prices down and dampening interests in fishing.

The State of Alaska harvest objective for cod was set based on averages of commercially landed catch, with realization that much of the bait harvest had gone unreported historically; so, some unreported bait catch is a weak basis for a conservation concern.

Lingcod, Page 4-A-12: Quotas are managed to the lower end of the Guideline Harvest Level (GHL). No expansion of the directed fishery is possible in the East Yakutat area and, in fact, the directed fishery catch has been lowered because of the increase in allowable bycatch in the offshore Demersal Shelf Rockfish fishery.

The EA incorrectly describes lingcod as long-lived whereas Pacific cod are not. Both are relatively short lived: lingcod have a maximum age of about 20 years while Pacific cod have a maximum age of about 13 years.

The State manages lingcod on a small area basis and attempts to move the fleet around to equalize fishing pressure.

The EA apparently assumes, based on Gordon (1994), that the fish on the outer coast are resident. The fish there appear to be transient, following feed into the beach at a very distinct window of time in the summer. The concern with localized depletion (Gordon's paper) had to do with taking males off the nest. There is no directed fishing allowed in state waters during the winter months to prevent harvest of males when they are at their nests. Taking transient fish is not expected to cause the same problem.

A study conducted on the genetic variation and population structure of lingcod on the Pacific Coast including Alaska concluded that there was not enough difference between the genetics of lingcod to suggest separate stocks along the West Coast, with the exception of Puget Sound (Jagiello, T.H., L.L. LeClair, and B.A. Vorderstrasse. 1996. Genetic variation and population structure of lingcod. Transactions of the Am. Fish. Soc. 125:372-386). Also, juveniles appear to disperse over a wide geographic range. For these reasons (transient nature of the harvested population, nesting season closure, lack of genetic separation, and juvenile dispersal), it is hard to accept a conservation basis for a lingcod closure on outer coast waters.

Rockfish, Page 4-A-13: It is likely that the charter fleet out of Elfin Cove and Pelican take a comparable quantity of rockfish as the commercial fleet and are capable of creating localized depletion as they tend to target the same small areas due to operational constraints.

The sentence that starts "*As with halibut*" is incorrect. Rockfish are viviparous and don't have pelagic eggs. The statement that "*larval and juvenile recruitment to the park is therefore largely independent of park stocks*" is unsupported by current knowledge. Patterns of rockfish recruitment are unknown, particularly in inside waters.

There would be little chance of seeing an increase in removals within park boundaries through the commercial fishery as the quotas are already managed on a small area basis.

Sablefish, Page 4-A-13: This section of the EA fails to adequately acknowledge that the proposed changes in the regulations to groundfish harvests would not result in a decrease in harvest but rather would result in increased harvests in waters outside of the park boundaries.

The ADF&G report to the Alaska Board of Fisheries (O'Connell 1997) is not an adequate reference on the life history of sablefish.

General Effects on Non-Commercial Marine Species, Pages 4-A-14 through 4-A-18:

The portrayal of indirect impacts and sublethal effects of commercial fishing (4-A-14 & 15) are highly speculative, and it is impossible based on the projections to evaluate any potential benefit from implementing the proposed rule. This section appears to be an attempt to scare uninformed readers and thus garner general support for proposed closures. In so doing, the ability of fishery managers to identify and deal with real concerns of the consequences of various impacts of gear and harvests on the populations and communities is undermined.

Pollution, Page 4-A-16: It is unlikely that a marine oil spill from a commercial fishing vessel could cause a “*catastrophic and long lasting*” impact. Vessels used for commercial fishing are not of the size nor carry enough fuel to have this kind of impact.

Marine Ecosystem Consequences, Pages 4-A-16 through 18: The predicted “*cascade of trophic, energetic and other ecological effects*” throughout the entire marine ecosystem due to commercial fisheries are speculative and unsupported. Linking such effects to sleeper sharks is scientifically irresponsible. No evidence is provided, nor is the probable significance described, which would presumably be important in evaluating alternatives.

It is also irresponsible and unsupported to contend that the removal of biomass through the level of commercial fishing presently allowed in Glacier Bay is “critical” to natural ecosystem function.

General Effects on Marine Mammals, Pages 4-A-18 through 4-A-25: The section on general effects on marine mammals is presented to “*provide the full scope of possible fishing effects*” Like much of the document, the intent seems to be to rally support for closure rather than to provide real data or analysis that allows a reader to understand the true impact of commercial fishing.

Page 4-A-25: The implication that commercial salmon fishing has significantly impacted food for bears provides yet another example of unscientific scare tactics. There is no basis for this claim. In fact the EA ignores the general observation that Admiralty Island supports the world's largest brown bear population, yet salmon spawning in Admiralty Island streams are probably harvested at a higher rate than those in Glacier Bay.

Page 4-A-26 states: “*One of the major contributions to seabird decline worldwide is entanglement in long line fishing gear*”. We question the relevance of citing tuna fishery incidental catch rates off Brazil and Uruguay. We also question the relevance of data for murrelets in gillnet fisheries when this gear type is not even used in the area. This general discussion appears to be more scare tactics.

General Effects on Maritime Tradition, Page 4-A-33: The EA seriously downplays the effects of the proposed rule restricting many fisheries by saying, in effect, that the

maritime culture in Icy Straits is already in serious decline, thus minimizing the real impacts of added proposed closures.

General Effects of No-Take Reserves, Page 4-A-35 through 4-A-37: The State recognizes that NPS has special conservation objectives; however there is no evidence presented here or in subsequent presentations by reserve specialists and park staff that establishing no-take reserves in Glacier Bay will in any measurable way benefit other local fisheries. This section is largely speculative and states assumptions apparently designed to garner support from the general population that is unfamiliar with the complexity of the issues at hand. The Service has failed to establish a need or benefit for such marine reserves in Southeast Alaska for the species harvested in Glacier Bay, let alone make a case that Glacier Bay would be a reasonable location for a reserve if one was desirable. The EA also fails to identify a meaningful experimental design that could be used to evaluate the effectiveness of a no-take reserve if one were established. The EA understates the significance of sport harvests in an effort to describe the commercial closures as creating a no-take reserve management plan.

Enhancing Fisheries Sustainability, Page 4-A-37: The fundamental criteria for a reserve is to define its purpose and set aside an area that can meet that purpose. Closing areas to commercial fishing for the sake of closing one harvest regime while stocks are still harvested is of questionable value except for a specific purpose for a given stock. The authors themselves acknowledge the weakness of their advocacy for a reserve in their statement *“Even with all the above taken into consideration, closing commercial fishing in an area may not necessarily create an effective reserve.”*

Other Effects, Page 4-A-37: The EA states: *“No-take reserves could also affect sport fishers and subsistence/personal use harvesters. Effects would depend upon whether restrictions extended to these users, or focused only on commercial harvest; in the case of the latter, there could be benefits from the removal of commercial competition.”* We desire assurances that the Service has no intention of extending the reserve concept to the non-commercial fisheries occurring within the boundaries of the park. No-take reserves would only affect these other users if the closures of commercial fisheries were likewise applied to the others. Furthermore, as the EA recognizes above, closing all fisheries in these areas may still not necessarily create an effective reserve because of the highly migratory nature of many species.

Impacts of Alternative One: Proposed Action

Page 4-B-9: There is no biological basis for discontinuing the commercial pot shrimp fishery in Lituya Bay. Nor are there significant visitors to the area currently being affected. Furthermore, the pot shrimp fishery in the area occurs over a very limited period of time with a very limited harvest. With the expansion of the fishery in other areas of southeastern Alaska the impact of losing this fishing area would be significant. This fishery has been protected by the 1998 Act except within Glacier Bay proper.

A fundamental environmental impact of the proposed phase outs and closures of the commercial fisheries both proposed in the 1997 rulemaking (and the 1998 Act) is inadequately addressed in the EA. In many of the commercial fisheries, closures will result in additional crowding and exploitation by fishermen who, without additional revenues to change and more closely monitor, could cause minor to significant impacts on fishery resources, depending upon species and fishery. For example, Tanner crab stocks are currently subject to overharvest with our existing tools. We are trying to develop and obtain funding for preseason stock assessment work. Closing a significant fishing area like Glacier Bay proper will only make the problem worse—more highly susceptible.

Page 4-B-11 states that the proposed alternative “*would not affect the Excursion Inlet purse seine fishery*”. Whether or not this is true would depend upon permits or other restrictions that may be pursued by NPS in rulemaking or a future management plan.

Page 4-B-14: The closure proposed in the regulations and EA of commercial fishing for lingcod in outer coast waters would have deflected effort to other areas. Total allowable catch for lingcod in the East Yakutat area would have been reduced by the amount that is attributable to the habitat inside the park’s outer-coast waters. These impacts were not considered. Under the 1998 Act, this fishery will continue.

Pacific cod, Page 4-B-14: Confidential records of harvest locations indicate that about 95% of the Pacific cod harvest in statistical areas in and adjacent to the park is taken outside of the boundaries.

Outer waters, Page 4-B-14: This section is confusing in that directed fishing with dinglebars for lingcod would be prohibited under Alternative 1, yet the EA predicts local depletions as if continued fishing would occur (note that directed longlining for lingcod is prohibited under state regulations). There is no argument or evidence provided that closure of lingcod in this area will benefit populations within park boundaries.

Pacific Salmon, Glacier Bay Proper, Page 4-B-19: The statement implies “*Up to 18,000 king salmon . . .*” would be taken, as though the NPS intends to inappropriately impose a limit.

Impacts on Marine Birds, Page 4-B-29: There are little to no data presented on the effects of commercial fishing on marine birds, thus all effects discussed are general observations and speculation. We can’t help but note with humor that the section contrasts all the speculative discussions with a conclusion that “*. . . effects of commercial fishing on marine birds are not believed to be substantial; continued commercial fishing during the phase out is expected to have little effect on marine bird distribution, abundance or population structure*” then follows this with the statement “. . . the closure of Glacier Bay proper to all commercial fishing after 15 years would benefit seabirds, waterfowl, shorebirds and bald eagles . . .” If as they say there is no

substantial effect by the commercial fishing on marine birds, how can there be a benefit of eliminating the commercial fishery?

Impacts of Alternative 4: (Continued Fishing)

Impacts on Commercial Fisheries, Glacier Bay Proper, Page 4-E-3: This section also implies some type of an inappropriate limit where in the second paragraph it states: “fewer than 20 trollers . . .”

Pacific Salmon, Glacier Bay Proper and Outer Waters, Page 4-E-7: There is no evidence in coho or pink salmon that trolling would affect the fish size. These are ocean fish, and they are all the same size with natural variation.

The statement “*Reproductive potential and potential recruitment of park stocks would continue to be reduced as a result of continued commercial fisheries harvest*” is false. As stated above, if the spawning population is near the MSY size, there should be no loss in either of these parameters. In addition, the Service has failed to define what is meant by the above terms, particularly “park stocks”.

Cumulative Impacts

Cumulative Effects on Water Quality, Page 4-G-1: Although it may be correct that “*termination of commercial fishing activities in Glacier Bay in 15 years would eliminate a potential source of water pollution*”, it is a fairly minute consideration to support eliminating the fisheries, especially considering increasing use levels by all other vessel traffic, e.g. cruise ships, charter boats, kayakers.

Cumulative Effects on Commercial Fisheries and Commercially Harvested Marine Species, Impacts on Anadromous Salmonid Habitat, Page 4-G-2: Lay readers would likely appreciate definitions of “*mass wasting*” and “*jokulhaup*”.

Sport Fishing, Page 4-G-3 and 4-G-6. There is an apparent concern by NPS that sport fish harvests are affecting fishery resources in the park. There is also reference to a study being conducted by park staff. If the NPS is gathering data with apparent intent to restrict sport fish harvest, this concern should have been addressed in the EA. More importantly, we are concerned about the possible conduct of research on resources managed by the State without coordination or provisions for State participation.

Climatic Changes, Page 4-G-4: This analysis seems far-fetched, e.g., “*For example, based on current rates of greenhouse gas emissions, predicted temperature increases would shift thermal limits for sockeye salmon in the Bering Sea over the next half century.*”

PART TEN: ATTACHMENTS

Attachment A

Summary of Regulatory History: Commercial fisheries have not been prohibited since 1966.

The proposed rule asserts that NPS prohibited commercial fishing in Glacier Bay by regulation in 1966, when it deleted a provision specifically authorizing commercial fishing in Glacier Bay National Monument. The State disagrees with NPS' conclusion, and requests that NPS acknowledge its history of accommodating commercial fisheries in Glacier Bay.

The cited 1966 regulation did not affect Glacier Bay marine fisheries, because it only prohibited commercial fishing in fresh water. *See* 31 Fed. Reg. 16653 (December 29, 1966) (codified at 36 C.F.R. 2.13(j)(2) (1967)). Years later, in 1983, NPS agreed that its regulations were inconsistent by only prohibiting commercial fishing in fresh waters. 48 Fed. Reg. 30256 (June 30, 1983). NPS therefore revised its general regulations to expressly prohibit commercial fishing, except where specifically authorized. *Id.* at 30265, 30283 (codified at 36 C.F.R. § 2.3(d)(4)). However, NPS had already specifically recognized and authorized commercial fishing in Glacier Bay, and ANILCA had authorized the continuance of existing uses in 1980.

There can be no question that NPS knew of and condoned ongoing commercial fishing in Glacier Bay after 1966 and after 1983. In 1980, for example, NPS adopted regulations pursuant to Endangered Species Act authority to protect endangered humpback whales. These regulations specifically recognized and validated commercial fisheries. *See* 45 Fed. Reg. 85741 (December 30, 1980) (restricting commercial operators from fishing for, or retaining if caught, species on which humpback whales feed); 45 Fed. Reg. 85480 (December 29, 1980) (proposing to restrict commercial harvest of Pacific herring and to prohibit bottom trawling in Glacier Bay to protect humpback whales). In 1983, NPS proposed closure of wilderness waters to commercial fishing and to prohibit trawling to protect whales, but did not seek to limit other fisheries. 48 Fed. Reg. 14978 (April 6, 1983).

NPS reaffirmed its approval of ongoing commercial fisheries in Glacier Bay's 1984 General Management Plan:

Commercial fishing has been an activity of considerable economic importance in park and preserve waters in recent years. Cross Sound, Icy Strait, the outer coast (Gulf of Alaska), and the Dry Bay vicinity have been the most important areas. Glacier Bay proper, the park's principal visitor use area and the focus of most park visitor activities, is also considered an important fishing area that is used by commercial fishermen Traditional commercial fishing methods include trolling, long lining and pot fishing for crab, and seining (Excursion Inlet only) in park waters and setnet fishing in preserve waters (Dry Bay area)

The Alaska Department of Fish and Game will continue to regulate commercial fishing in Glacier Bay National Park and Preserve, which is consistent with ANILCA and state law. Traditional commercial fishing practices will continue to be allowed throughout most park and preserve waters. However, no new (nontraditional) fishery will be allowed by the National Park Service. Halibut and salmon fishing and crabbing will not be prohibited by the Park Service. Commercial fishing will be prohibited in wilderness waters in accordance with ANILCA and the Wilderness Act. Glacier Bay GMP, September 1984, at 51.

NPS again acknowledged commercial fishing as an authorized activity in Glacier Bay in permanent humpback whale regulations. *See* 49 Fed. Reg. 15482 (April 18, 1984) (proposed rule); 50 Fed. Reg. 19880 (May 10, 1985) (final rule) (codified at 36 C.F.R. § 13.65). Among other things, these regulations expressly exempted from the motor vessel permit requirement commercial fishing vessels “*engaged in commercial fishing within Glacier Bay, provided that commercial fishing vessel use levels remain at or below their 1976 use levels.*” 36 C.F.R. § 13.65(b)(3)(iii)(A) (1995). The vessel operating restrictions also exempted commercial fishing vessels “*actively trolling or being used to set or pull long lines.*” 36 C.F.R. § 13.65(b)(4) (1995).

When NPS intended to restrict particular commercial fisheries or gear types in Glacier Bay to protect endangered whales, it did so by adopting regulations specifically prohibiting only those fisheries or gear types. *See* 36 C.F.R. § 13.65(b)(5) (prohibiting fishing for or retaining if caught, herring, capeline, sandlance, euphausiids or shrimp); 36 C.F.R. § 13.65(b)(6) (prohibiting trawling in Glacier Bay).

These regulations remained unchanged until 1996 when NPS adopted insignificant changes to several sections referencing commercial fishing vessels. These revisions were never noted or addressed in the Park Service’s Federal Register publications, in which NPS assured the public that its 1996 actions did not affect commercial fishing. NPS stated its intent to address commercial fishing issues in separate rulemaking and affirmed that “*this rule continues the exemption that commercial fishing vessels actually engaged in commercial fishing have from the seasonal entry and daily use limits that apply to other vessel types.*” 61 Fed. Reg. 27008, 27013, 27015 (May 30, 1996).

The express authorization of commercial fishing in NPS park-specific regulations, coupled with its history of recognizing and assuring continuation of commercial fishing in this area, expressly exempts these fisheries from NPS general regulations prohibiting commercial fishing in national park units. These circumstances hardly support NPS’ claim that it prohibited all commercial fishing in Glacier Bay in 1966, or that “no action” requires immediate closure of all fisheries. To the contrary, these regulations reflect NPS’ specific recognition and authorization of these fisheries in Glacier Bay. NPS’ acknowledgment of this error would be appropriate and appreciated by individuals unfairly characterized in the proposed rule as fishing unlawfully.

Attachment B

State of Alaska Conservation Strategies

Examples of the State's multifaceted conservation strategies are provided below to clarify misconceptions about the State's management system found throughout the proposed rule and EA. These are derived from numerous publications and ADF&G's Home Page at <www.state.ak.us/local/akpages/FISH.GAME/adfghome.htm>

Alaska's Conservation Mandate—Successful Salmon Management in Law and in Practice:

Conservation of salmon stocks is required under the Alaska state constitution. Alaska's constitution, unique among the 50 states, has an Article solely devoted to the management and utilization of natural resources. The constitution mandates that renewable resources "shall be utilized, developed and maintained on the sustained yield principle." With Statehood, the Alaska Department of Fish and Game was formed. Alaska law states: "The Commissioner shall manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state in the interest of the economy and general well-being of the state." To ensure the sustained yield of salmon stocks which is constitutionally and statutorily mandated, the Alaska Department of Fish and Game manages salmon fisheries, while the Alaska Board of Fisheries is given the responsibility for allocating the yield of salmon among users. This clear separation of management authority from allocation authority is one of the strengths of the Alaska management system.

Alaska's Environmental Record—Protecting Salmon Habitat: Alaska has always made a strong commitment to conserving and protecting important salmon habitat. Alaska has strict regulations governing development activities to protect vital spawning and rearing salmon streams. Water discharges, such as sewage and other potential pollutants, are closely regulated to ensure high water quality. Alaska has been willing to forego the economic benefits from other activities such as large-scale hydropower developments proposed and denied in order to sustain salmon resources for future generations. As an example, no mining or oil leasing permits have been issued in the vicinity of Glacier Bay park despite the state's claim of ownership of the submerged lands, in part to recognize the special values of the area.

Alaska's Science-Based Management—Letting the Managers Manage: With the constitutional and statutory mandates to conserve, the Alaska Department of Fish and Game has effectively managed Alaska's Pacific Salmon stocks to ensure conservation and to promote production. As a result, stocks of salmon spawning in Alaska are generally healthy, and fisheries dependent upon these stocks have benefited, with statewide harvests ranging from about 100 to 200 million salmon per year over the past 15 years. In 1959 at the time of statehood, statewide harvests totaled only about 25 million salmon—a level equivalent to less than 20 percent of current sustained production. State of Alaska management is intensive, conducted on a real-time basis with regulations implemented by local area biologists in-season, with a clear legal mandate and delegated authority. Delegated emergency authority (openings and closings on extremely short notice, not an "emergency" per se) provides for

immediate conservation by area biologists. Salmon managers open and close fisheries on a daily or even hourly basis to ensure that adequate spawning escapements are achieved. When runs are strong, managers liberalize harvest regulations to utilize surpluses. When runs are poor, managers close fisheries to provide for predetermined escapement needs and hence ensure long-term sustainable yields. Thus, even though low salmon returns may occur in some areas of the state, causing economic hardship in communities, the fisheries closures in-season by local biologists with delegated regulatory authority continue to ensure sustained yields for future years as a key ingredient of the State's successful salmon management.

Alaska's Record under the Pacific Salmon Treaty: Alaska has worked hard in the Pacific Salmon Commission to conserve chinook salmon. Alaska began a chinook rebuilding program several years before the Pacific Salmon Treaty was signed. To address the need for a scientifically-based, long-term management regime for chinook salmon stocks, the U. S. Section of the Pacific Salmon Commission, including the states of Alaska, Washington, Oregon and the Pacific Northwest Treaty Tribes developed a comprehensive long-term approach for the Southeast Alaska chinook fishery. This approach for the Alaska fishery was adopted by agreement of the U. S. Section in June 1996. It is responsive to changes in chinook abundance and represents a significant technical and policy advancement in chinook salmon management. The abundance-based approach incorporates an in-season assessment program to determine run strength so that necessary adjustments to harvest levels, either up or down, can be accomplished. The approach provides for the conservation and fair sharing of the harvests. This recently adopted agreement also promotes sustainable yields and prevents over fishing. In addition, it provides for the establishment of improved biologically-based escapement or spawning goals for individual stocks. Alaska has successfully used abundance-based management for 30 years in order to rebuild its salmon stocks from the low levels due to adverse environmental conditions and over fishing under federal management which Alaska inherited at statehood. The approach adopted under the Treaty will continue Alaska's role in sustaining naturally spawning chinook stocks at healthy levels.

Attachment C

Table 1: Impacts of Statutory Changes in 1998 Act in Glacier Bay National Park

Impacts of Statutory Changes-Glacier Bay National Park 1998

Glacier Bay Proper						
	East & West Arm, King Troll only, Winter	John Hopkins, Tarr Inlet, Reid Inlet	Beardslee Wilderness	Hugh Miller, Skidmore, Adams Wilderness	Geikie Inlet	Remainer of Glacier Bay Proper
Fishery						
Salmon						
King	Summer Closure	Immediate Closure			Immediate Closure	TBD
Coho	TBD-Incidental	Immediate Closure			Immediate Closure	TBD
Chum	NA				NA	TBD-incidental
Pink	NA				NA	TBD-incidental
Longline						
Halibut	Immediate closure	Immediate Closure			Immediate Closure	TBD
Black Cod	NA				NA	NA
Rock Fish	Immediate closure	Immediate Closure			NA	TBD
Pacific Cod	Immediate closure	Immediate Closure			Immediate Closure	Immediate Closure
Food		Immediate Closure				
Bait		Immediate Closure				
Crab						
Dungeness	NA	Immediate Closure			Immediate Closure	Immediate Closure
Tanner	Immediate closure	Immediate Closure			Immediate Closure	
King	Immediate closure	Immediate Closure			Immediate Closure	Immediate Closure
Shrimp	Previously closed	Previously closed			Previously closed	Previously closed
Herring	Previously closed	Previously closed	Previously closed		Previously closed	Previously closed
Whale prey species	Previously closed	Previously closed	Previously closed		Previously closed	Previously closed
Scallops	NA	NA			NA	NA
Developing Fisheries						
Clams	NA	Immediate Closure	Immediate Closure	Immediate Closure	Immediate Closure	Immediate Closure
Sea Urchins, Sea Cucumbers	Immediate Closure	Immediate Closure	Immediate Closure	Immediate Closure	Immediate Closure	Immediate Closure

Questions:

- (1) Incidental long line catch in GB Proper
- (2) Incidental troll catch of halibut in winter?
- (3) Closure in Bay Proper during primary visitor season?
- (4) TBD, To Be Determined: We assume incidental catch continues under state management for phase out fisheries.

Attachment D

MASTER MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ALASKA DEPARTMENT OF FISH AND GAME
JUNEAU, ALASKA
AND
THE U.S. NATIONAL PARK SERVICE
DEPARTMENT OF THE INTERIOR
ANCHORAGE, ALASKA

This Master Memorandum of Understanding between the State of Alaska, Department of Fish and Game, hereinafter referred to as the Department, and the U.S. Department of the Interior, National Park Service, hereinafter referred to as the Service, reflects the general policy guidelines within which the two agencies agree to operate.

WHEREAS, the Department, under the Constitution, laws, and regulations of the State of Alaska, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State on the sustained yield principle, subject to preferences among beneficial uses; and

WHEREAS, the Service, by authority of the Constitution, laws of Congress, executive orders, and regulations of the U.S. Department of the Interior is responsible for the management of Service lands in Alaska and the conservation of resources on these lands, including conservation of healthy populations of fish and wildlife within National Preserves and natural and healthy populations within National Parks and Monuments; and

WHEREAS, the Department and the Service share a mutual concern for fish and wildlife resources and their habitats and desire to develop and maintain a cooperative relationship which will be in the best interests of both parties,

the fish and wildlife resources and their habitats, and produce the greatest public benefit; and

WHEREAS, the Alaska National Interest Lands Conservation Act (ANILCA) and subsequent implementing Federal regulations recognize that the resources and uses of Service lands in Alaska are substantially different than those of similar lands in other states and mandate continued subsistence uses in designated National Parks plus sport hunting and fishing, subsistence, and trapping uses in National Preserves under applicable State and Federal laws and regulations; and

WHEREAS, the Department and the Service recognize the increasing need to coordinate resource planning and policy development;

NOW, THEREFORE, the parties hereto do hereby agree as follows:

THE DEPARTMENT OF FISH AND GAME AGREES:

1. To recognize the Service's responsibility to conserve fish and wildlife and their habitat and regulate human use on Service lands in Alaska, in accordance with the National Park Service Organic Act, ANILCA, and other applicable laws.
2. To manage fish and resident wildlife populations in their natural species diversity on Service lands, recognizing that nonconsumptive use and appreciation by the visiting public is a primary consideration.
3. To consult with the Regional Director or his representative in a timely manner and comply with applicable Federal laws and regulations before embarking on management activities on Service lands.

4. To act as the primary agency responsible for management of subsistence uses of fish and wildlife on State and Service lands, pursuant to applicable State and Federal laws.
5. To recognize that National Park areas were established, in part, to "assure continuation of the natural process of biological succession" and "to maintain the environmental integrity of the natural features found in them."

THE NATIONAL PARK SERVICE AGREES:

1. To recognize the Department as the agency with the primary responsibility to manage fish and resident wildlife within the State of Alaska.
2. To recognize the right of the Department to enter onto Service lands after timely notification to conduct routine management activities which do not involve construction, disturbance to the land, or alterations of ecosystems.
3. To manage the fish and wildlife habitat on Service lands so as to ensure conservation of fish and wildlife populations and their habitats in their natural diversity.
4. To cooperate with the Department in planning for management activities on Service lands which require permits, environmental assessments, compatibility assessments, or similar regulatory documents by responding to the Department in a timely manner.
5. To consider carefully the impact on the State of Alaska of proposed treaties or international agreements relating to fish and wildlife resources which could diminish the jurisdictional authority of the State, and to consult freely with the State when such treaties or agreements have a significant impact on the State.

6. To review Service policies in consultation with the Department to determine if modified or special policies are needed for Alaska.
7. To adopt Park and Preserve management plans whose provisions are in substantial agreement with the Department's fish and wildlife management plans, unless such plans are determined formally to be incompatible with the purpose for which the respective Parks and Preserves were established.
8. To utilize the State's regulatory process to the maximum extent allowed by Federal law in developing new or modifying existing Federal regulations or proposing changes in existing State regulations governing or affecting the taking of fish and wildlife on Service lands in Alaska.
9. To recognize the Department as the primary agency responsible for policy development and management direction relating to subsistence uses of fish and wildlife resources on State and Service lands, pursuant to applicable State and Federal laws.
10. To consult and cooperate with the Department in the design and conduct of Service research or management studies pertaining to fish and wildlife.
11. To consult with the Department prior to entering into any cooperative land management agreements.
12. To allow under special use permit the erection and maintenance of facilities or structures needed to further fish and wildlife management activities of the Department on Service lands, provided their intended use is not in conflict with the purposes for which affected Parks or Preserves were established.

THE DEPARTMENT OF FISH AND GAME AND THE NATIONAL PARK SERVICE MUTUALLY AGREE:

1. To coordinate planning for management of fish and wildlife resources on Service lands so that conflicts arising from differing legal mandates, objectives, and policies either do not arise or are minimized.
2. To consult with each other when developing policy, legislation, and regulations which affect the attainment of wildlife resource management goals and objectives of the other agency.
3. To provide to each other upon request fish and wildlife data, information, and recommendations for consideration in the formulation of policies, plans, and management programs regarding fish and wildlife resources on Service lands.
4. To recognize that the taking of fish and wildlife by hunting, trapping, or fishing on certain Service lands in Alaska is authorized in accordance with applicable State and Federal law unless State regulations are found to be incompatible with documented Park or Preserve goals, objectives or management plans.
5. To recognize for maintenance, rehabilitation, and enhancement purposes, that under extraordinary circumstances the manipulation of habitat or animal populations may be an important tool of fish and wildlife management to be used cooperatively on Service lands and waters in Alaska by the Service or the Department when judged by the Service, on a case by case basis, to be consistent with applicable law and Park Service policy.
6. That implementation by the Secretary of the Interior of subsistence program recommendations developed by Park and Park Monument Subsistence Resource

Commissions pursuant to ANILCA Section 808(b) will take into account existing State regulations and will use the State's regulatory process as the primary means of developing Park subsistence use regulations.

7. To neither make nor sanction any introduction or transplant of any fish or wildlife species on Service lands without first consulting with the other party and complying with applicable Federal and State laws and regulations.
8. To cooperate in the development of fire management plans which may include establishment of priorities for the control of wildfires and use of prescribed fires.
9. To consult on studies for additional wilderness designations and in development of regulations for management of wilderness areas on Service lands.
10. To resolve, at field office levels, all disagreements pertaining to the cooperative work of the two agencies which arise in the field and to refer all matters of disagreement that cannot be resolved at equivalent field levels to the Regional Director and to the Commissioner for resolution before either agency expresses its position in public.
11. To meet annually to discuss matters relating to the management of fish and wildlife resources on, or affected by, Service lands.
12. To develop such supplemental memoranda of understanding between the Commissioner and the Regional Director as may be required to implement the policies contained herein.
13. That the Master Memorandum of Understanding is subject to the availability of appropriated State and Federal funds.

14. That this Master Memorandum of Understanding establishes procedural guidelines by which the parties shall cooperate, but does not create legally enforceable obligations or rights.
15. That this Master Memorandum of Understanding shall become effective when signed by the Commissioner of the Alaska Department of Fish and Game and the Alaska Regional Director of the National Park Service and shall continue in force until terminated by either party by providing notice in writing 120 days in advance of the intended date of termination.
16. That amendments to this Master Memorandum of Understanding may be proposed by either party and shall become effective upon approval by both parties.

STATE OF ALASKA

Department of Fish and Game

By Ronald O. Skoog
Ronald O. Skoog
Commissioner

Date 14 October 1982

U.S. DEPARTMENT OF THE INTERIOR

National Park Service

By John E. Cook
John E. Cook
Regional Director, Alaska

Date October 5, 1982

Attachment E

Partial list of State management plans, policies, and reports that guide management of commercial fishing in the vicinity of Glacier Bay National Park

- 5 AAC 38.076 Alaska Scallop Fishery Management Plan
- 5AAC 38.140. Southeastern Alaska Sea Cucumber Management Plan
- 5 AAC 38.145 Southeastern Alaska Red Sea Urchin Management Plan
- Management Plan for the Spring Commercial Troll Fishery in SE Alaska, 1998
- Southeast Alaska Purse Seine Fishery 1998 Management Plan
- 5 AAC 39.210 Management Plan for High Impact Emerging Fisheries
- 5 AAC 39.220 Policy for the Management of Mixed Stock Salmon Fisheries
- Sablefish, *Anoplopoma fimbria*, Stock Assessment in the Inside Waters of Southeast Alaska, NOAA Technical Report NMFS 130
- Alaska Commercial Salmon Trolling Regulatory Guide, Winter 1999 (adopted October 1998)
- Yakutat Set Gillnet Fishery 1998 Management Plan
- Management Plan for Chinook and Coho Salmon in the Southeast Alaska/Yakutat Summer Troll Fishery 1998
- Northern Southeast Inside (Chatham Strait) Relative Abundance Longline Survey Cruise Report August 1997
- Alaska Commercial Salmon Trolling Regulatory Guide, Summer 1998
- Summary of Changes in the Demersal Shelf Rockfish Stock Assessment (11-98)
- State of Alaska Groundfish Fisheries Associated Investigations in 1997 May 1998
- Southeast Alaska-Yakutat Salmon Troll Fisheries including Chinook and Coho Salmon Stock and Escapement Assessments, 1996 by Gaudet & Stopha Jan 97
- Draft Proposed Interim Management Plan for Commercial Lingcod Fisheries in Southeast Alaska, Regional Information Report 1993
- Groundfish Fisheries Southeast Alaska-Yakutat Region 1995 Report to the Board of Fisheries

TABLE III-2

**Alaska Commercial Fishing Permits Reporting Landings by Species
For Icy Strait Communities, 1995**

COMMUNITY	Elfin Cove	Gustavus	Hoonah	Pelican
1990 Population	57	258	795	222
1995 Persons Fishing Permits	27	21	75	50
Com. Fish/Population	.47	.08	.09	.23
Permits/Fisherman	1.67	1.67	1.79	1.9
SALMON	23	8	61	37
Subtotal salmon (%) permits	(50%)	(23%)	(45.5%)	(39%)
HALIBUT	15	12	44	35
Subtotal halibut (%) permits	(33%)	(34%)	(32.8%)	(37%)
SABLEFISH	4 (8.7%)	3 (8.6%)	15 (11.2%)	17 (18%)
CRAB				
Dungeness	1	6	2	2
Tanner	0	5	6	1
King	0	0	3	0
Subtotal crab (%) permits	1 (2.2%)	11 (31.4%)	11 (8.2%)	3 (03%)
SHRIMP	2 (4.4%)	1 (2.9%)	3 (02%)	3 (03%)
ROCKFISH	0	0	0	0
TOTAL PERMITS FOR SELECTED SPECIES	45	35	134	95

Source: Commercial Fisheries Entry Commission

IIA-50

Table III-3
Distribution of Alaska Commercial Fishing Permits by Permit Type
in Icy Strait Communities, 1996

COMMUNITY	Elfin Cove	Gustavus	Hoonah	Pelican
1990 Population	57	258	795	222
1996 Total Permits	396	350	930	880
Permits per Resident	6.9	1.4	1.2	4.0
Permits per Holder	2.69	2.99	2.67	3.47
SALMON				
Hand troll	80	55	275	102
halibut	13	25	7	50
misc. fish	10	1	31	8
Power troll	60	24	69	109
Purse seine	0	1	29	1
Drift gillnet (SE)	1	2	4 (2)	10 (8)
Subtotal salmon (%)	164 (41.4%)	108 (30.8%)	415 (47%)	280 (32%)
HALIBUT				
< 5 tons, longline	63	52	187	83
> 5 tons, longline	36	23	68	101
Misc. fish, longline	28	18	41	61
Mechanical jig	8	10	15	36
Subtotal halibut (%)	135 (34%)	103 (29.4%)	311 (35%)	285 (32%)
SABLEFISH	22 (5.6%)	14 (4%)	39 (4.4%)	87 (10%)
CRAB				
Dungeness				
< 5 tons, pots	15	11	5	26
> 5 tons, pots	3	30	17	7
Tanner				
< 5 tons, pots	2	9	7	6
> 5 tons, pots	0	0	4	2
Ringneis	2	16	12	2
Kling	1	0	16	13
Subtotal crab (%)	23 (5.8%)	66 (19%)	61 (6.9%)	56 (6%)
SHRIMP	9 (2.2%)	10 (2.9%)	18 (2%)	35 (4%) (1 other trawl)
ROCKFISH	9 (2.2%)	4 (1.1%)	17 (2%)	25 (2.8%)
OTHER	34 (8.6%)	45 (12.9%)	69 (7.5%)	56 (6.2%)

Source: Commercial Fisheries Entry Commission

**Table III-4
Alaska Commercial Fishing Earnings for Icy Strait Communities,
1975-1995**

YEAR/ EARNINGS (Thousands)	Elfin Cove	COMMUNITY Gustavus	Hoonah	Pelican
75			\$588.50	\$249.50
76				\$768.80
77				\$1,180.70
78		\$120.90		\$2,175.80
79	\$758.90			\$2,596.40
80		\$237.60		\$1,805.50
81		\$337.90		\$2,236.60
82				\$3,215.90
83			\$2,182.10	\$2,187.40
84	\$534.60		\$2,383.30	\$2,595.20
85	\$664.40	\$331.10	\$2,643.20	\$2,774.50
86	\$571.90		\$2,403.50	\$3,816.80
87	\$633.60	\$571.10	\$2,727.40	\$3,983.40
88	\$807.20	\$553.30		
89	\$728.90	\$543.80		
90	\$740.90		\$3,208.90	\$3,096.00
91	\$780.70	\$772.10	\$3,658.10	
92		\$630.80	\$3,420.70	\$2,767.00
93	\$837.80	\$803.20	\$3,263.50	\$2,871.00
94		\$1,083.30	\$4,742.40	\$3,861.60
95	\$934.50	\$849.00	\$2,649.90	\$3,001.50

Note: Empty cells indicate data suppression due to Alaska statutes on confidentiality.

Source: Commercial Fisheries Entry Commission

IA-53

Table 5 (Draft)

PERMITS AND EARNINGS BY ALL FISHERMEN
WITH LANDINGS FROM
GLACIER BAY NATIONAL PARK DISTRICTS,
1994

(In thousands of dollars)

	TOTAL PERMIT/EARN FROM GB DISTRICTS PLUS ALL OTHER		TOTAL PERMIT/EARN FROM GB DISTRICTS PLUS OTHER SE		TOTAL PERMIT/EARN FROM GB DISTRICTS		TOTAL PERMIT/EARN FROM OUTER COAST		TOTAL PERMIT/EARN FROM CROSS SOUND/ICY STRAIT		TOTAL PERMIT/EARN FROM GLACIER BAY PROPER	
	810	\$67,533.6	810	\$56,849.7	484	\$8,817.3	256	\$5,369.5	243	\$2,197.4	57	\$1,250.3
ALL FISHERS	810	\$67,533.6	810	\$56,849.7	484	\$8,817.3	256	\$5,369.5	243	\$2,197.4	57	\$1,250.3
SE AK FISHERS	651	\$82,526.8	651	\$47,012.4	372	\$7,023.4	182	\$3,903.8	216	\$1,917.0	64	\$1,202.8
Local	171	\$10,346.3	171	\$9,923.5	109	\$2,067.2	47	\$1,072.8	72	\$627.5	23	\$386.9
Other SE	480	\$72,180.3	480	\$37,088.9	263	\$4,956.2	135	\$2,830.8	144	\$1,289.6	31	\$835.9
OTHER AK FISHERS	31	\$3,857.5	31	\$9857.6	21	\$465.3	18	\$406.1	6	\$37.8	1	NA
NON-AK FISHERS	128	\$11,149.3	128	\$11,149.3	71	\$1,329.6	56	\$1,059.8	22	\$242.6	2	NA

Table 6 (Draft)

**PERMITS AND EARNINGS BY ALL FISHERMEN
WITH LANDINGS FROM
GLACIER BAY NATIONAL PARK DISTRICTS,
1995**

(in thousands of dollars)

	TOTAL PERMIT/EARN FROM GB DISTRICTS PLUS ALL OTHER	TOTAL PERMIT/EARN FROM GB DISTRICTS PLUS OTHER SE	TOTAL PERMIT/EARN FROM GB DISTRICTS	TOTAL PERMIT/EARN FROM OUTER COAST	TOTAL PERMIT/EARN FROM CROSS SOUND/ ICY STRAIT	TOTAL PERMIT/EARN FROM GLACIER BAY PROPER
ALL FISHERS	836 \$28,508.7	836 \$23,411.5	556 \$4,049.6	381 \$1,040.6	253 \$1,687.8	82 \$1,321.1
SE AK FISHERS	820 \$19,821.3	820 \$18,033.0	423 \$3,082.7	288 \$264.2	221 \$1,568.5	77 \$1,280.1
Local	156 \$2,764.3	156 \$2,674.1	110 \$768.1	59 INC	84 \$608.1	24 \$234.3
Other SE	484 \$17,077.4	464 \$16,368.9	313 \$2,314.6	209 \$238.5	137 \$1,060.3	53 \$1,016.8
OTHER AK FISHERS	32 \$1,683.5	32 \$985.1	24 \$219.8	19 \$212.3	19 \$212.3	1 NA
NON-AK FISHERS	184 \$5,134.0	184 \$4,393.4	109 \$747.0	84 \$564.1	94 \$564.1	4 NA

Attachment G

Social and Economic Profiles of Selected Communities

There are no areas in the continental U.S. and few areas in Alaska that depend more on commercial fishing as a mainstay of the economy than the immediate communities surrounding Glacier Bay. The State of Alaska, Department of Community and Regional Affairs publishes social and economic profiles of small and large communities. The descriptions provided by regional community development specialists emphasize the magnitude of fishing and seafood processing to the local economy. It appears, however, that NPS did not reference this info in the EA.

Pelican (Current Population 149)

Commercial fishing and seafood processing are the mainstays of Pelican's economy. Commercial fishing permits are held by 47 residents. Most employment occurs at Pelican Seafoods, which also owns the electric utility, a fuel company and store. In April 1989, Pelican Seafoods was purchased by Kaioh Suisan, a Japanese firm. In February 1996, the plant was closed. It was subsequently purchased by Kake Tribal Corp. and re-opened during the summer of 1996, employing over 60 persons during the peak season. The plant processes salmon, halibut, sable fish, rockfish, and Dungeness crab.

Hoonah (Current Population 896)

Fishing is a mainstay of the economy, and Hoonah experiences nearly full employment during the summer season. Commercial fishing permits are held by 126 residents. Fish processing at Excursion Inlet Packing Co., employment at the Thompson Cold Storage plant, logging for Sealaska Corp., and logging-related activities provide local employment. The Huna Totem Corp. owns a sort yard and timber transfer facility. Subsistence activities are important component of the lifestyle. Salmon, halibut, shellfish, deer, waterfowl and berries are harvested.

Elfin Cove (Current Population 50)

Residents of Elfin Cove participate in commercial fishing, sport fishing and tourism-related services such as fishing charters. Commercial fishing permits are held by 37 residents. The local school, services and retail businesses also provide employment.

Petersburg (Current Population 3,398)

Since its beginning, Petersburg's economy has been based on commercial fishing and timber harvests. Petersburg currently is one of the top-ranking ports in the U.S. for the quality and value of fish landed. Commercial fishing permits are held by 483 residents. Unlike the rest of Southeast, it has escaped the marked cycles of boom-and-bust. Several processors operate cold storage, canneries and custom packing services, employing over 1,100 people during the peak season. The state runs the Crystal Lake Hatchery that contributes to the local salmon resource, and the U.S. Forest Service operates a tree nursery. Residents include salmon, halibut, shrimp and crab in their diet. It is the supply and service center for many area logging camps.

Independent sportsmen and tourists utilize the local charter boats and lodges, but there is no deep water dock suitable for cruise ships.

Sitka (Current Population 8,779)

The economy is diversified with fishing, fish processing, tourism, government, transportation, retail, and health care services. Sitka is a port of call for many cruise ships each summer; the City expects to welcome 176,000 passengers during 1998. Commercial fishing permits are held by 572 residents, and fish processing provides seasonal employment. Regional health care services provide approximately 675 jobs. The U.S. Forest Service and U.S. Coast Guard are significant federal employers. The Alaska Pulp Corporation, the major employer in Sitka, closed in September 1993, forcing nearly 400 persons into unemployment. However, Sitka's abundant resources and diverse economy have enabled the community to recover.

Gustavus (Current Population 368)

Gustavus has a seasonal economy; the lodge and park, located northwest of Gustavus, attract a number of tourists and recreation enthusiasts during summer months. Some commercial fishing occurs; 38 residents hold commercial fishing permits. The lodge, airport, school, small businesses, and the Park Service offer employment. Gardening is a prevalent local activity.

Juneau (Current Population 30,684)

The State, City & Borough of Juneau, and federal agencies provide nearly 45% of the employment in the community. Juneau is home to State Legislators and their staff during the legislative session between January and May. Tourism is a significant contributor to the private sector economy during the summer months, providing a \$130 million income and nearly 2,000 jobs. Over 560,000 visitors are expected to arrive during 1998 from 550 cruise ship dockings. The Mendenhall Glacier, Juneau Icefield air tours, Tracy Arm Fjord Glacier, and the new Mount Roberts Tram are local attractions. Support services for logging and fish processing contribute to the economy. Commercial fishing permits are held by 549 residents. The state operates a hatchery which increases the local salmon population, and cold storage facilities process over 2 million pounds of seafood yearly. The Kensington Gold Mine is currently undergoing the permitting and development process.