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**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA**  
**FIRST JUDICIAL DISTRICT AT SITKA**

<b>SITKA TRIBE OF ALASKA</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1SI-18-00212 CI
	)	
<b>STATE OF ALASKA, ALASKA</b>	)	
<b>DEPARTMENT OF FISH AND GAME,</b>	)	
<b>and ALASKA BOARD OF FISHERIES,</b>	)	
	)	
Defendants,	)	<b>SOUTHEAST HERRING</b>
	)	<b>CONSERVATION ALLIANCE</b>
and	)	<b>OPPOSITION TO MOTION FOR</b>
	)	<b>SUMMARY JUDGMENT BY</b>
<b>SOUTHEAST HERRING</b>	)	<b>SITKA TRIBE OF ALASKA</b>
<b>CONSERVATION ALLIANCE,</b>	)	
	)	
Defendant-Intervenor.	)	
_____	)	

Defendant-Intervenor Southeast Herring Conservation Alliance (the “Alliance”) opposes the motion for partial summary judgment filed by plaintiff Sitka Tribe of Alaska (the “Tribe”) in relation to its claims against the State of Alaska (the “State”), Alaska Department of Fish and Game (“ADF&G”).

## **I. SUMMARY OF OPPOSITION**

The crux of the Tribe's claims against ADF&G is the allegation that the agency has failed to properly interpret and implement 5 AAC 27.195(a)(2) and (b) by refusing to distribute the commercial harvest of sac roe herring by fishing time and area to provide a reasonable opportunity for subsistence, and by failing to consider the quality and quantity of herring roe on branches in making management decisions in-season. As interpreted by the Tribe, subsections (a)(2) and (b) preclude ADF&G from opening the commercial fishery until these factors have been addressed, which is possible only after herring have begun spawning. Whether enough herring will spawn in the traditional subsistence harvest area, including the now-closed core area, to ensure that the subsistence harvest will yield the amount reasonably necessary for subsistence – the sole metric by which the Tribe gauges reasonable opportunity – can never be known before the herring spawn begins. Whether the spawn will yield “quality” herring roe – a function of the duration of the spawn and number of layers of roe deposition on the substrate – can only be assessed after the spawn has largely concluded. Were ADF&G to apply subsections (a)(2) and (b) as the Tribe believes is required, the commercial fishery would not survive. The commercial fishery is structured to harvest herring sac roe before the fish spawn. If ADF&G were prevented from opening the fishery until after the spawn has begun because it has to make the determinations and assessments the Tribe contends are mandatory, the viability of the commercial fishery would be substantially, if not fatally, undermined.

Ultimately, the Tribe seeks to obtain from this court relief that it has repeatedly failed to achieve before the Alaska Board of Fisheries (the “Board”), and which the Board cannot conceivably have intended in adopting 5 AAC 27.195. The Tribe's interpretation of subsections (a)(2) and (b) would, in effect, expand the current core area commercial fishing closure to all of

Sitka Sound until herring have begun spawning. It would remove ADF&G's discretion to open the commercial fishery prior to the spawn, in clear contravention of the Board's express intention that in-season management of the herring fisheries should remain within the purview of ADF&G and the exercise of its best judgment. The Tribe's interpretation would render subsection (a)(1) superfluous, in that achievement of the guideline harvest level (GHL) would be virtually impossible if ADF&G had to wait until spawning had begun, if not concluded, before it could open the commercial fishery. The relief the Tribe seeks against ADF&G would fundamentally alter management of the herring fisheries in Sitka Sound, a reality that ADF&G officials rightly expressed in statements prior to and during the course of this lawsuit. These statements were not a new interpretation of 5 AAC 27.195 as the Tribe contends, but rather reflected a recognition by ADF&G that the management changes demanded by the Tribe would completely reshape how the agency manages the herring resource in Sitka Sound, and would directly contradict that regulation and the Board's intent in adopting it.

The Alliance's opposition will be presented in three parts. First will be a discussion of the standard of review. The Alliance briefly examined this issue in its opening brief,<sup>1</sup> but will expand on that analysis in response to the Tribe's formulation. The second part will review the Tribe's claims that ADF&G has failed to comply with 5 AAC 27.195(a)(2) regarding distribution of the commercial harvest by fishing time and area, if necessary, to ensure a reasonable opportunity for subsistence use of herring roe. The final section will address the Tribe's

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<sup>1</sup> See Southeast Herring Conservation Alliance Memorandum in Support of Motion for Partial Summary Judgment, dated November 27, 2019 (herein "SHCA SJ Mem.") at 17, notes 74-75 and accompanying text.

arguments pertaining to 5 AAC 27.195(b), and how the quantity and quality of herring roe on branches should be considered in the management process.

## **II. STANDARD OF REVIEW**

The facts concerning ADF&G's interpretation and implementation of 5 AAC 27.195 are set forth in the administrative records (ARs) of the Board and ADF&G that have been produced and filed by the State. The documents in the ARs speak for themselves and are not in dispute. The parties disagree regarding the significance of the facts in the ARs and how they should be viewed under the relevant legal standards, but these disagreements go to the second prong of the test under Alaska Rule of Civil Procedure 56 – whether either party is entitled to judgment as a matter of law. On that issue, the parties are not in the same position. The plaintiff Tribe has the burden of proving the allegations against ADF&G stated in their complaint. The defending parties have no such burden. If the Tribe has failed to sustain its burden of proof – as in the case here – then summary judgment against the Tribe and in favor of the State and the Alliance must be entered.

The Tribe argues that no deference is due for ADF&G's long-standing interpretation of 5 AAC 27.195 because the regulation was promulgated by the Board, a separate agency.<sup>2</sup> This argument fails for several reasons. First, although the Board and ADF&G have separate powers – the Board promulgates rules; ADF&G implements them – they are in effect one agency. Both are constituted under and derive their authority from the Fish and Game Code, AS 16.05, and unlike the agencies involved in the case cited by the Tribe, both are defendants in this case. The

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<sup>2</sup> See Sitka Tribe of Alaska's Memorandum in Support of Motion for Partial Summary Judgment, dated November 27, 2019 (herein, "STA SJ Mem.") at 25-27, citing *Tea ex rel A.T.*, 278 P.3d 1265 (Alaska 2012).

Board and ADF&G are two sides of the same coin, for purposes of the standard of review. Second, the Tribe asserts that “[t]he Board understood that providing a reasonable opportunity required delegating authority to ADF&G to make ‘in-season’ determinations about the commercial and subsistence fisheries with the goal of distributing the commercial fishery to ensure a reasonable opportunity for subsistence.”<sup>3</sup> If ADF&G is acting pursuant to a delegation of authority from the Board, as the Tribe posits, then ADF&G’s interpretation of the regulation under this delegation is entitled to deference. The Tribe cannot have it both ways. Finally, ADF&G has regularly advised the Board how it implements 5 AAC 27.195 in managing the Sitka Sound herring fisheries, through staff reports and during deliberations at Board meetings. The Board has never indicated that it disagrees with ADF&G’s interpretation and application of that regulation.

The Tribe cites a string of decisions which they believe govern the standard of review in this case.<sup>4</sup> These cases are mostly inapposite. The Tribe argues that courts must independently review the merits of an administrative determination, citing *Handley v. State, Dep’t of Revenue*, 838 P.2d 1231, 1233 (Alaska 1992). The court in that case was talking about its role in reviewing a decision by a superior court sitting as a court of intermediate appeal. In that situation, the decision of the superior court is not entitled to deference. This principle has nothing to do with the standard of review that should be employed by a superior court hearing a judicial challenge to agency action.

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<sup>3</sup> STA SJ Mem. at 31.

<sup>4</sup> *Id.* at 28, notes 41-44.

The Tribe also cites *Stosh's I/M v. Fairbanks N. Star Borough*, 12 P.3d 1180, 1185 (Alaska 2000), for the unremarkable proposition that an administrative agency should follow its own regulations. The Tribe neglects to point out what the court said about the standard of review:

We review an agency's interpretation of its own regulations under the reasonable and not arbitrary standard. The reasonable and not arbitrary standard is not demanding: “[W]here an agency interprets its own regulation ... a deferential standard of review properly recognizes that the agency is best able to discern its intent in promulgating the regulation at issue.”

12 P.3d at 1183 (citations omitted).

Finally, the Tribe cites *Alaska Survival v. State, Dep't of Natural Resources*, 723 P.2d 1281, 1287 (Alaska 1986), for the idea that an agency decision should be found arbitrary and capricious if it fails “to consider factors that it is by law required to consider.”<sup>5</sup> That case concerned an agricultural land disposal and subsequent lottery. One of the questions raised was whether it was arbitrary and capricious for DNR to proceed with the lottery despite having received new soils data. *Id.* at 1286-87. The court said this was a “very close question” but declined to hold that DNR had acted arbitrarily or unreasonably. *Id.* The court concluded that DNR had a reasonable basis for finding that the land disposal was in the state’s best interests and that proceeding with the lottery was not arbitrary. *Id.* at 1288. The court made it clear that it was not going to substitute its judgment for that of the agency acting in its area of expertise. *Id.* If anything, *Alaska Survival* supports the position of the State and the Alliance that ADF&G’s interpretation and implementation of 5 AAC 27.195 is entitled to considerable deference.

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<sup>5</sup> STA SJ Mem. at 28, note 44.

### III. 5 AAC 27.195(a)(2)

The State described how ADF&G implements the distribution requirement in 5 AAC 27.195(a)(2) in its opening brief.<sup>6</sup> The State’s analysis demonstrated quite clearly that ADF&G has interpreted and applied this regulation consistently since it was adopted in 2002, and has regularly kept the Board informed of its approach to implementing the distribution requirement. The Tribe quotes from ADF&G’s 2002 Management Plan, including language explaining the “if necessary” clause in (a)(2):

The “if necessary” clause in statement (2) emphasizes that management decisions must be made inseason by the department based on the department manager’s best judgment concerning the inseason situation.<sup>7</sup>

This explanation confirms that the distribution requirement in subsection (a)(2) is a matter left to the best judgment of the fishery manager in-season.

The Tribe complains that despite the distribution requirement, ADF&G has continued to open the commercial fishery “in traditional subsistence areas in 2003 and every year between 2005 and 2015.”<sup>8</sup> However, ADF&G made it clear from the beginning that fishing in traditional subsistence areas would often be necessary in order to achieve the GHL:

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<sup>6</sup> See Memorandum in Support of State of Alaska’s Motion for Summary Judgment: Count I, dated November 27, 2019 (herein “State SJ Mem.”) at 24-25 and 34-36. The Alliance also addressed this topic in its opening brief. See SHCA SJ Mem. at 12-15 and 17-21.

<sup>7</sup> See STA SJ Mem. at 15, citing the *Southeast Alaska Sac Roe Herring Fishery 2002 Management Plan*, RIR 1J02-11 (February 2002) (the “2002 Management Plan”), STA Exh. 6 at 3.

<sup>8</sup> STA SJ Mem. at 16. The Board closed the core area in 2012 and there have not been any commercial openings in that area since. The Tribe’s claim that ADF&G opened the commercial fishery in traditional subsistence areas in years after 2012 apparently refers to some other, undefined set of traditional areas.

The general approach would be to act on opportunities for openings outside the high frequency spawning areas as they arise, yet recognize that fishing within this area is likely necessary in order to provide an opportunity for the commercial fishery to harvest and reach the season's GHL.<sup>9</sup>

Indeed, the third mechanism for implementing the distribution requirement quoted by the Tribe explicitly contemplates harvesting a percentage of the GHL in a high frequency spawning area:

(3) limiting harvest in the high frequency spawning area along the Halibut Point Road in proportion to historical use patterns established by past competitive commercial fishery (50 - 55 %) of the GHL.<sup>10</sup>

The proposition implicit in the Tribe's thesis, that 5 AAC 27.195(a)(2) precludes opening the sac roe fishery in areas within or adjacent to traditional subsistence use areas, is not supported by the record.

The Tribe states that it filed this lawsuit after meeting with State representatives and "learning that ADF&G erroneously believed it lacked authority under 5 AAC 27.195 to distribute the commercial fishery by 'time and area' to ensure a reasonable opportunity for subsistence."<sup>11</sup> This argument is based on an e-mail from ADF&G Director of Commercial Fisheries, Forrest Bowers, dated November 16, 2018.<sup>12</sup> The Tribe mischaracterizes Bowers's e-mail and ignores the context in which it was written. His e-mail was sent in response to an e-mail from one of the Tribe's counsel in this case, Elizabeth Hensley, dated November 15, 2018.<sup>13</sup>

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<sup>9</sup> *Southeast Alaska Sac Roe Herring Fishery 2003 Management Plan*, RIR 1J03-11 (February 2003) (the "2003 Management Plan"), STA Exh. 5 at 3.

<sup>10</sup> *See* STA SJ Mem. at 15.

<sup>11</sup> *Id.* at 21.

<sup>12</sup> *See* STA Exh. 12.

<sup>13</sup> *Id.* at 2.

Ms. Hensley wanted to know whether ADF&G was willing to agree to a proposed subsistence management plan, “[i]n particular, the Tribe’s proposal to delay the commercial fishery until after the first spawn.”<sup>14</sup> This was a reference to a Subsistence Management Plan for Sitka Sound Herring, dated November 7, 2018, that the Tribe had presented to ADF&G.<sup>15</sup> Item 1 in that proposed plan provided that ADF&G “will not open the commercial fishery until 1) the minimum threshold is confirmed by on-the-ground surveys AND 2) first spawn is observed in Sitka Sound and is verified through aerial and deposition surveys.” This provision would, in effect, have expanded the core area closure to all of Sitka Sound until the first spawn was verified, and precluded ADF&G from using its discretion to open the commercial fishery at any time prior to the spawn even if it observed harvestable quantities of herring with acceptable mature roe content for a viable commercial opening. Foreclosing the possibility of a commercial opening prior to the spawn would thus directly contradict 5 AAC 27.195(a)(1), which requires ADF&G to manage the commercial sac roe fishery “consistent with” the regulations at 5 AAC 27.160(g) (prescribing the GHL) and 5 AAC 27.190 (prescribing the steps ADF&G should take in managing commercial herring fisheries in Southeast Alaska).

The e-mail response from Director Bowers began by stating, “We can’t commit to delaying start of the commercial fishery until after spawning has begun.”<sup>16</sup> His e-mail speaks for itself, but the gist is precisely along these lines, that altering management as proposed by the Tribe would represent a “fundamental shift” in the way sac roe fisheries are managed and would

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<sup>14</sup> *Id.*

<sup>15</sup> *See* STA Preliminary Injunction Exh. 10.

<sup>16</sup> STA SJ Exh. 12 at 1.

essentially amount to an amendment of the management plan that ADF&G could not implement on its own but which would require action by the Board of Fisheries.<sup>17</sup> The Tribe recognizes that regulations and interpretations of regulations that make specific the law require formal promulgation under the Administrative Procedures Act (APA).<sup>18</sup> It is ironic, at best, that the Tribe sought to have ADF&G effectively revise 5 AAC 27.195 to prohibit any commercial opening prior to the beginning of the spawn, without any APA process.

The Tribe similarly mischaracterizes the deposition testimony of the ADF&G manager of the Sitka Sound herring fisheries, Eric Coonradt. The Tribe first asserts that Mr. Coonradt admitted that his reading of 5 AAC 27.195 was based only on his “reading of the regulation and personal experience with the fishery.”<sup>19</sup> This is not accurate. Mr. Coonradt was asked the following question, “So your understanding of the regulations is based on your reading of the regulations and just your experience in how they have been applied before,” to which he answered “yes.”<sup>20</sup> The Tribe’s recount of his testimony leaves off the qualifier “how they [the regulations] have been applied before.” Mr. Coonradt echoed this idea a few questions later when he responded to a question about his understanding of the regulation by stating that “it’s based on my experience *of how we do things*.”<sup>21</sup> (Emphasis added). He went on to say that

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<sup>17</sup> *Id.* At its meeting in 2015, the Board unanimously rejected proposal 118 submitted by an STA employee, Jeff Feldspauch, which would have limited the percentage of the GHL that could be harvested before the spawn. *See* BOF 5123-31. The proposal in the Tribe’s subsistence plan went further and would have precluded harvesting *any* of the GHL before spawning began.

<sup>18</sup> *See* STA SJ Mem. at 25-26 and note 33.

<sup>19</sup> *Id.* at 27-28 and notes 38-39.

<sup>20</sup> STA SJ Exh. 13 at 4 (Deposition Transcript page 25).

<sup>21</sup> *Id.* at 5 (Deposition Transcript page 28).

ADF&G's interpretation of 5 AAC 27.195 had never changed "since I've been around."<sup>22</sup> Mr. Coonradt thus clearly indicated that he was drawing upon ADF&G's long-standing, continuous interpretation of the regulation, and was not just winging it as the Tribe implies.

In sum, ADF&G has diligently applied the distribution requirement in 5 AAC 27.195(a)(2) since the regulation was adopted in 2002. The fact that ADF&G did not accede to the Tribe's request that ADF&G take action contrary to that plan, by agreeing not to conduct a commercial opening prior to the beginning of the herring spawn, does not equate to a failure to properly interpret and apply the regulation. The Tribe's claim that ADF&G has violated 5 AAC 27.195(a)(2) fails.

#### **IV. 5 AAC 27.195(b)**

In its opening brief, the Alliance demonstrated that the language of 5 AAC 27.195(b) appearing in the Alaska Administrative Code (AAC) was not adopted by the Board.<sup>23</sup> The Board instead adopted the following section (3) pertaining to the ADF&G's consideration of quality and quantity of herring roe on branches and herring sac roe:

In managing the Sitka Sound commercial sac roe herring fishery the department shall

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(3) recognize that quality and quantity of herring roe on branches and herring sac roe is an important consideration in the management of the subsistence and commercial sac roe fisheries.<sup>24</sup>

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<sup>22</sup> *Id.* (Deposition Transcript pages 28-29).

<sup>23</sup> *See* SHCA SJ Mem. at 8-9.

<sup>24</sup> *Id.* (citing BOF 70).

This formulation was reflected in the Board’s post-meeting summary of the action taken in adopting 5 AAC 27.195, and was also incorporated into the Memorandum of Agreement (MOA) that ADF&G, the Tribe, and the Board chair executed in November 2002.<sup>25</sup>

Further confirmation that the Board adopted section (3) and not the language in 5 AAC 27.195(b) is provided in the 2002 Management Plan that the Tribe filed as its Exhibit 6. The 2002 Management Plan contained a section entitled, “New Regulations for the Sitka Sound Fishery,” which reads in its entirety:

During its January 7-14 meeting in Anchorage, the Board adopted the following new regulation for management of the Sitka Sound sac roe herring fishery.

5 AAC 27.195. SITKA SOUND COMMERCIAL SAC ROE HERRING FISHERY MANAGEMENT PLAN. In managing the Sitka Sound commercial sac roe herring fishery the department shall:

- (1) manage the commercial sac roe herring fishery in Section 13-B consistent with the applicable provisions of 5 AAC 27.160(g), and 5 AAC 27.190;
- (2) distribute the commercial harvest, if necessary, so that subsistence users a reasonable opportunity to harvest the amount as specified in 5 AAC 01.716; and
- (3) recognize that quality and quantity of herring roe on branches, kelp, seaweed and herring sac roe is an important consideration in the management of the subsistence and commercial sac roe fisheries.

The new regulation creates a new regulatory management plan specific to the commercial fishery in Sitka Sound. The first statement (1) references the existing regulations. The second statement (2) requires the department disperse the commercial harvest both geographically and temporally, if necessary, so that the subsistence fishery has a reasonable opportunity to harvest the amount of spawn, which the board has determined to be necessary for subsistence (108,000 lbs to 158,000 lbs). The third statement (3) is a statement of finding that the quality, not just the quantity is important for both fisheries, and therefore may be factored into management decisions. The “if necessary” clause in statement (2) emphasizes that management decisions must be made inseason by the department based on the department manager’s best judgment concerning the inseason situation.<sup>26</sup>

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<sup>25</sup> See BOF 70 and ADFG 2696, respectively.

<sup>26</sup> 2002 Management Plan at 3-4 (STA Exh. 6 at 2-3).

This section of the 2002 Management Plan clearly demonstrates that the Board adopted section 3, not 5 AAC 27.195(b).<sup>27</sup> The commentary accompanying the quoted plan language states that section (3) “is a statement of finding.” It is not, as the Tribe contends, a mandatory command. The commentary also says that quality and quantity are important for both the commercial and subsistence fisheries and “therefore *may* be factored into management decisions.” (Emphasis added).

The conclusion to be drawn from this analysis is that 5 AAC 27.195(b), as it appears in the AAC, is not enforceable and is of no force and effect. That provision was never adopted by the Board. The Board instead adopted section (3), which is only “a statement of finding” that quality and quantity of herring roe are “an important consideration” that “may” be factored into management decisions. The Alliance recognizes that AS 44.62.110(a) creates a rebuttable presumption that the text of a regulation as published in the AAC is the text of the regulation adopted. The evidence adduced by the Alliance, together with STA Exh. 6, clearly rebuts the presumption that would otherwise attach to 5 AAC 27.195(b).

The fact that the language of 5 AAC 27.195(b) was never adopted by the Board explains why the Tribe has not advocated the interpretation of that provision that it advances for the first time in this litigation. Everyone – the Board, ADF&G, and the Tribe – well knew that the Board intended only that ADF&G recognize that quality of herring roe on branches is an important consideration in the management process, and that ADF&G primarily considered quality of subsistence herring roe through the post-season survey. No one has heretofore suggested that

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<sup>27</sup> It is also noteworthy that in section (2) the Board did not use the word “ensure” as found in the language of 5 AAC 27.195(a)(2).

subsection (b) obligates ADF&G to consider the quality of herring roe on branches in-season before it can open the commercial fishery.

Even if the language of 5 AAC 27.195(b) were given effect, the State has clearly demonstrated that it has complied with that provision.<sup>28</sup> The Alliance has made this point, too.<sup>29</sup> The only thing ADF&G has not done is attempt to assess the quality of herring roe on branches in-season. There is good reason for this. ADF&G has found that

Good quality eggs cover the substrate several layers deep and lack impurities, such as sand. Thickness of deposition is related to the number of days of spawning activity, as well as other factors, such as the size or density of the spawning school of herring.<sup>30</sup>

Even if ADF&G had a mechanism for assessing the quality of herring roe on branches in the field during the season (which it does not), that assessment cannot be made until after several days of spawning activity and the thickness of the deposition -- the number of layers of eggs on the substrate -- can be observed. The Tribe's thesis that 5 AAC 27.195(b) requires ADF&G to wait until that point, essentially at the end of the spawn, to open the commercial fishery, would mean no commercial fishery. The commercial fishery largely occurs before the spawn, and there is simply no way to incorporate an in-season assessment of the quality of herring roe and still have a viable commercial sac roe fishery.<sup>31</sup>

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<sup>28</sup> See State SJ Mem. at 8, 14-16, and 36-38.

<sup>29</sup> See SHCA SJ Mem. at 15-16.

<sup>30</sup> Sill and Cunningham, Technical Report 435 (December 2017) at BOF 3882. See also Deposition of Lauren Sill at 63-65.

<sup>31</sup> At the Board meeting in 2015, during deliberations on STA Proposal 118, Board member Jensen stated that the limiting the percentage of the sac roe harvest prior to the spawn would "pretty much destroy the fishery" (BOF 5125) and that the "whole idea" of the sac roe fishery was to harvest herring before they spawn (BOF 5127). The Tribe's proposal to completely preclude any harvest of the GHF before the spawn is even more extreme than Proposal 118.

Nothing in the record provides any support for an argument that the Board intended ADF&G to hold off allowing any commercial opening until the agency could assess how many layers of roe had been deposited on branches. ADF&G's incorporation of quality considerations into the management process is instead a function of the post-season survey. The Board has been advised of ADF&G's approach on this aspect of the management plan, and has never voiced a contrary view.<sup>32</sup> The Tribe's claim related to 5 AAC 27.195(b) cannot be sustained.

## V. CONCLUSION

The Tribe has failed to carry its burden of proving their claims against ADF&G alleged in their complaint, and they are not entitled to judgment as a matter of law. The court should therefore enter judgment in favor of the State and the Alliance on these claims.

Dated this 20<sup>th</sup> day of December, 2019.

*Michael A. D. Stanley*

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<sup>32</sup> The Board is scheduled to hold its regular, in-cycle meeting on regulatory proposals for Southeast Alaska finfish fisheries, including Sitka Sound herring, in January 2021. Public proposals for new or revised regulations are due by April 10, 2020. If the Tribe truly believes that the Board should require ADF&G to delay opening the commercial fishery until the herring have spawned, they should submit a proposal to that effect (along with the usual suite of proposals the Tribe files every meeting cycle). The Board, ADF&G, and affected stakeholders could then have a dialogue regarding that idea, and fully explore the ramifications for the commercial sac roe fishery.

### Certificate of Service

I certify that on December 20, 2019, I electronically served a true and correct copy of the foregoing document on the following:

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