



## **Sitka Tribe of Alaska Prevails again in Key Ruling in Subsistence Fishing Litigation Against State**

On November 30, 2020, Superior Court Judge Schally ruled that the Alaska Department of Fish & Game (ADF&G) failed to follow regulations requiring it to meaningfully consider the “quality and quantity” of herring spawn on branches when managing the commercial herring fishery in Sitka Sound.

This ruling is the second victory for Sitka Tribe of Alaska (STA) in the lawsuit. In March, the court ruled that ADF&G had failed to make required determinations regarding whether there is a reasonable opportunity for subsistence harvesters when managing the commercial fishery.

STA filed the lawsuit in 2018 after nearly 20 years of consistently failing subsistence harvests. The most recent decision builds on the March ruling, making it even more clear that ADF&G has failed to lawfully manage the herring fishery. The Court’s decisions confirm that ADF&G has violated the law and failed to implement Board of Fisheries regulations meant to ensure a reasonable opportunity for subsistence users to harvest the quantity and quality of herring spawn necessary to meet their customary and traditional needs and uses.

According to Lisa Gassman, STA General Manager, “this should send a signal to ADF&G that the Board’s regulations implementing the subsistence priority must be followed when managing the commercial fishery.”

Sky Starkey, lead attorney for STA emphasized that “Sitka tribal citizens and subsistence users throughout Alaska who depend on herring eggs from Sitka Sound to help sustain their way of life have suffered considerable hardship because of ADF&G ‘s long standing failure to manage the commercial sac roe fishery as required by Board of Fisheries regulations and the law. Year after year, ADF&G has illegally prioritized the ability of the commercial fishery to harvest their full quota of herring sac roe. In many years during this period, subsistence harvests have fallen far below the amount needed to sustain essential nutritional and cultural uses, including the traditional practice of widespread sharing with other subsistence users throughout Alaska. ADF&G also, in 2009, unilaterally withdrew from a memorandum of agreement with Sitka Tribe of Alaska, and joined by the Board of Fisheries, which set in place a cooperative relationship to help implement the Board’s regulations and provide reasonable opportunity for subsistence uses. Hopefully, the Court’s decisions will result in revival of this cooperative state-tribal relationship, and a commitment by ADF&G to manage the Sitka Sound herring fishery to ensure the priority for subsistence uses the law requires.”

For further information please contact STA’s Outside Counsel Sky Starkey or Andy Erickson of Landye Bennett Blumstein LLP at 907-276-5152.

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