

## **Alaska Board of Fisheries Findings and Policies Pertinent to February 2010 Meeting**

- 2006-250-FB Delegation of Authority to Correct Errors or Omissions in Regulations  
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- 2004-229-FB Findings on February 2004 Amendments to South Unimak and Shumagin Islands  
June Salmon Management Plan
- 2000-200-FB Procedures for Board of Fisheries Meeting Committees
- 2000-199-FB Alaska Board of Fisheries Committee Policy Statement
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- 96-164-FB South Peninsula June Fishery [Previously 96-08 FB]
- 94-150-FB Kenaitze v. State: Chum Salmon Conservation Measures for the Arctic-Yukon-  
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- 93-145-FB Findings on Policy for Mixed Stock Salmon Fisheries [Previously 93-07 FB]
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**ALASKA BOARD OF FISHERIES  
DELEGATION OF AUTHORITY TO  
CORRECT ERRORS OR OMISSIONS IN REGULATIONS AND TO  
REFORMAT AND RENAME CHAPTERS WITHIN ALASKA ADMINISTRATIVE  
CODE**

**2006-250-FB**  
(Replaces Finding 99-192-FB)

The Board of Fisheries ("board") makes the following findings:

1. The board characteristically adopts numerous regulations during the course of any year.
2. Many of the regulations adopted by the board are highly complex and interrelated with other regulations already in effect.
3. In view of the volume of regulatory proposals considered by the board at each meeting, it is impossible to prevent occasional ambiguities, inconsistencies, errors or omissions, or other technical shortcomings in regulations adopted by the board. Such deficiencies in regulations may preclude successful prosecution of regulatory violations, or prevent the intent of the board from being fully implemented or result in other consequences not desired by the board. Technical deficiencies may include some or all of the following items; formatting problems; typographical errors or inadvertent errors made during publication; conflicting regulations; lack of definition of terms and modification of terminology to reflect changes in technology.
4. As a result of the volume of regulations considered by the Board and the compressed timeline for getting regulations into place, errors or omissions, such as incorrect phrasing of Board conceptual regulatory language and failure to fully capture all amendments to a proposal in final regulatory language, do happen in the course of regulatory writing during a board cycle, and the board recognizes the need to correct such problems to make the regulations consistent with board's original intent.
5. It is impractical, unnecessary, and contrary to the public interest to initiate action by the full board to correct such errors or omissions, or address reformatting and renaming chapters within the Alaska Administrative code.
6. The commissioner and staff of the Department of Fish and Game, and personnel of the Departments of Law and Public Safety are most likely to notice technical deficiencies and errors and omissions in the regulations as a result of daily administration of Title 16 of the Alaska Statutes and Title 5 AAC regulations adopted by the board.

THEREFORE THE BOARD RESOLVES that in hereby makes the following delegation of its rulemaking authority under AS 16.05.251 and AS 16.05.258 to the commissioner of the Department of Fish and Game to be carried out under AS 16.05.270:

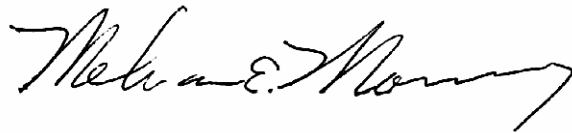
A. The commissioner may adopt, in accordance with the Administrative procedure Act (AS 44.62), permanent or emergency regulations, designated to eliminate inconsistencies, ambiguities, errors or omissions, or other technical deficiencies in existing regulations of the board.

B. The commissioner may reopen board regulatory projects after filing of the original regulations, and may sign a new adoption order reflecting the board's adoption of the regulations, within the current or previous board cycle, when through administrative error, the regulations are not correctly reflected in the administrative code. The commissioner may make such corrections in the regulations so long as they continue to be consistent with the board's original intent, as explained in the record of the board's proceedings.

C. All regulatory changes adopted by the commissioner under this delegation must be consistent with the expressions of the board's intent at the time it adopted the regulation to be corrected. Regulatory amendments that would result in a significant, substantive amendment or addition to existing board regulations that are not clearly manifest in the board's record, may not be adopted by the commissioner under the authority of this delegation and will require a separate delegation or direct board action.

D. This resolution replaces Finding 99-192-FB.

E. This delegation of authority shall remain in effect until revoked by the board.



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Mel Morris, Chairman  
Alaska Board of Fisheries

Adopted: 12/13/2006  
Dillingham, AK

VOTE: 6-0-1 (Andrews absent)

ALASKA BOARD OF FISHERIES  
FINDING OF SUPPORT IN THE FINDING OF EMERGENCY FOR  
ALEUTIAN ISLANDS DISTRICT West of 170° PACIFIC COD FISHERY  
2006-246-FB  
February 26, 2006

The Alaska Board of Fisheries finds that an emergency exists and emergency regulations providing for an Aleutian Islands District Pacific Cod Management Plan are necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

Economic opportunities for residents of Adak and other areas in the Aleutians are limited, and the tax base is highly dependent on fisheries. The small remote community of Adak, redeveloping after closure of a naval base, has lost access to fishery resources in recent years due to factors beyond its control such as crab rationalization which reduced it from packing 80 percent of the Western Brown Crab to 30 percent, stellar sea lion closures which prevent harvest of a federal Pollock allocation, and early harvests of the Pacific Cod total allowable catch, which is shared by the Bering Sea and Aleutian Islands Areas, before Pacific Cod are generally available for harvest in the Aleutians resulting in a fall in the Aleutian Islands harvest percentage from a high of 20.8 percent in 2000 to 10.2 percent in 2005. The federal "A" season for Pacific cod has been becoming steadily more compressed in recent years, with the quota reached on March 24 in 2004 and March 13 in 2005, and with closure as early as the first week of March possible in 2006. The majority of the vessels in the small boat fleet do not hold federal LLP's and are limited to participation in fisheries within State waters. Compression of the Pacific cod season, makes it uneconomic for small vessels to gear up and participate in the fishery and is further reducing the already limited opportunities available in the Adak area in both its exiting trawl fleet and its developing fixed gear fleet and this compression is contributing to an economic crisis which endangers the redevelopment of Adak.

In December 2005, the Board originally noticed an intent to adopt proposal 399, a Pacific Cod Management Plan for the Aleutians, at its January meeting, allowing sufficient time for regular regulations to become effective, however, the North Pacific Fisheries Management Council and the National Marine Fisheries Service requested a joint meeting with the Board prior to Board action, expressing concerns about the proposal, including concerns about impacts on resource conservation and sustained yield management, impacts on Stellar sea lions, the possibility of triggering formal consultation under section seven of the Endangered Species Act, impacts on other fisheries, the ability to rollover unharvested Pacific Cod, bycatch concerns, catch accounting concerns, enforcement concerns, and impacts on the related Federal Amendment 85 process. Pursuant to its groundfish guiding principles under 5 AAC 28.089 and its Joint Protocol agreement with the North Pacific Fisheries Management Council, the Board agreed to this request, and thereby resolved a number of urgent issues including insuring that the fishery would not create problems under the Endangered Species Act or violate sustained yield management principles. The decision to consult with the North Pacific Management Council and the National Marine Fisheries Service and to address the issues raised by these agencies made it impossible to adopt regular regulations that would be effective in time to allow a season for the Aleutians to open in March of 2006 impossible, regular regulations could not be effective until April of 2006, by which time the federal parallel fishery would be closed and the total allowable catch for the federal A season would be taken and unavailable to a State waters fishery. Failure to have the regulations in effect for the 2006 season would endanger

development of the fishery in the latter part of 2006 and in 2007, and would be highly detrimental to the welfare of the Adak community and small boat fishermen in the Aleutian Islands area.

In the absence of emergency regulations, due to the timing of Pacific Cod Fishery, severe winter weather conditions in the Aleutians, and a dangerous pass between Adak and the state waters fishing grounds, the small boat fleet would be very limited in its ability to safely participate in the early season and could participate fully and economically only by ignoring weather constraints which often preclude the safe operation of small boats in the Aleutians. Failure to have the regulations in effect for the 2006 season would thus be likely to result in significant public safety issues.

Based on the foregoing facts, emergency regulations with an immediate effective date, providing for a state waters Aleutian Islands Pacific cod management plan, stretching out the season and providing a reasonable opportunity for Pacific cod to be harvested in commercially viable quantities in the Aleutian Islands are needed in order to preserve both the public safety and welfare. The board delegates authority to the Commissioner or the commissioner's designee to prepare and file a formal finding of emergency along with the emergency regulations that reflect the board's actions taken during the February 20 - 26, 2006 meeting.

ADOPTED: FEB. 26, 2006

VOTE: 4/1/1/1

ABSTAIN: NELSON

  
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Melvan Morris/Acting Chair

**ALASKA BOARD OF FISHERIES**  
**Findings on February 2004 Amendments to**  
**South Unimak and Shumagin Islands June Salmon Management Plan**  
**(5 AAC 09.365)**  
**# 2004 - 229 - FB**

**I. Introduction.**

The Alaska Board of Fisheries took action on the South Unimak and Shumagin Islands June fisheries during its regularly scheduled Alaska Peninsula/Aleutian Islands (Area M) Finfish meeting that took place between February 15-26, 2004.

The Alaska Department of Fish and Game (department) staff presented a series of written area management reports, technical reports, and scientific analyses as well as a number of oral reports. They provided the board with comprehensive information relating to the historical and current commercial and subsistence fisheries, stock composition of the respective fisheries, and the status of salmon stocks in the Alaska Peninsula/Aleutian Islands area. Also presented were the most recent scientific information and analysis of that information by the staff.

The board took testimony from over 100 members of the public and advisory committee representatives. The board then broke into committee meetings on the numerous issues before it, including a meeting considering the proposals addressing the South Peninsula June fishery. Those members of the board received further information and discussion from public panel advisors and department staff.

The purpose of the committee meeting was to receive any new information that had not been handed out during staff reports and public testimony, and to allow public panel members and staff to interact with each other in front of the board committee in a "New England Town Hall" style setting. This allowed staff information and public panel member's recommendations to be discussed in more detail, to provide more information for the board to use during deliberations.

On February 25, the board began deliberations of the June fishery. Members of the board subcommittee provided both a written and oral summary to the full board. Deliberations on the pertinent proposals then began. Proposal 207 was brought to the record. An amendment was offered to replace proposal 207 with language from RC126, a proposed South Unimak and Shumagin Island June Salmon Management Plan.

This amendment resulted in several hours of deliberation and debate on the core issues surrounding the June fishery in Area M. Several attempts were made to amend the new management plan. All failed either by a 3-4 or a 2-5 vote. The plan contained in RC126 finally passed 4-3 (except for the language regarding area of the fishery in paragraph b, which had previously been dealt with under proposal 206), with members Dersham, Andrews, Morris and Jensen voting in favor, and members R. Nelson, A. Nelson, and Bouse opposed.

**II. Background on the South Peninsula June Fishery.**

The South Peninsula June fishery takes place in two primary locations: south of Unimak Island, where the majority of the harvest occurs, and in portions of the Shumagin Islands. The

South Unimak and Shumagin Island June fisheries harvest both sockeye salmon and chum salmon in a mixed stock fishery. The sockeye salmon are predominately of Bristol Bay and Alaska Peninsula origin. The chum salmon are bound for a number of areas, including Japan, Russia, the Arctic-Yukon-Kuskokwim (AYK), Bristol Bay, the Alaska Peninsula and southcentral Alaska. The salmon stocks have historically been harvested along the south Alaska Peninsula during the month of June. There is not a paucity of information about this fishery. The 1987 tagging study and the genetic stock identification (GSI) studies of the 1990s provide valuable data for analysis. Combined, they show that the June fishery is a low impact fishery with very low harvest rates (in the low and mid single-digit range, percentage-wise) on the separate stocks involved.

#### A. Sockeye Salmon in the June Fishery.

Several small tagging studies have taken place at South Unimak and in the Shumagins, from 1925 through the 1960s, but the largest, most recent, and most comprehensive was a study conducted by the department and contractors in both locations during the 1987 season.

For that study, 5,442 sockeye salmon were tagged at South Unimak and 1,545 were tagged in the Shumagin Islands during June and very early July. Almost all tag recoveries occurred in the Bristol Bay, North Alaska Peninsula, South Alaska Peninsula, and Chignik areas. There were high rates of tag return reporting and good assessments of terminal runs (catch and escapement) for stocks where tags were recovered. Based upon reasonable estimates and assumptions of tag loss, fish mortality, and tag reporting, the study estimated the stock composition of sockeye salmon harvested in the two fishing areas: 84 percent of the sockeye salmon harvested at South Unimak sockeye were bound for various systems in Bristol Bay, while 54 percent of those caught in the Shumagin Islands were destined for Bristol Bay.

These estimates of stock composition compare the number of fish harvested in a fishery that originate from any specific stock to the total number of fish harvested in that fishery. A related, but distinct and more important parameter is the harvest rate (or exploitation rate) of a fishery, which compares the same number of fish harvested in the fishery that are from a specific stock, but in this case, to the total number of fish in that stock (the total sum of catches and escapement).

Because the total sockeye salmon run into Bristol Bay (tens of millions) is so much larger than the total catch of sockeye in the South Peninsula June fishery (hundreds of thousands to low millions), the harvest rate of the June fishery on the Bristol Bay sockeye salmon run will necessarily be much lower than the stock composition of Bristol Bay sockeye in the June fishery harvest. Estimates from the 1987 tagging study bore this out: harvests of Bristol Bay-bound sockeye at South Unimak represented a little over 2 percent of the entire Bristol Bay sockeye run that year, while harvests of Bristol Bay-bound sockeye in the Shumagin Islands was less than 0.5 percent of the Bristol Bay run that year (c.f., RC 9).

Thus, the proportion of Bristol Bay sockeye in the June fishery sockeye catch (i.e., stock composition) is quite high, but the impact of these catches on the total Bristol Bay sockeye run (i.e., harvest rate) is very low. While these parameters may fluctuate somewhat from year to year, it is estimated that the South Peninsula June fishery annually exerts well less than a 5 percent harvest rate on Bristol Bay sockeye runs, thus 95 percent or more are available each year for commercial, sport, and subsistence harvests in Bristol Bay itself.

The sockeye salmon harvested in the June fishery are very high quality, and the timing of the harvest is early. These factors contribute to a high market price potential.

#### **B. Chum Salmon in the June Fishery.**

The 1987 study also tagged 3,495 chum salmon at South Unimak and 2,828 in the Shumagin Islands. Tags were recovered from locations all across the North Pacific, from British Columbia and southeast Alaska, through central and western Alaska, to Russia and Japan. Tag reporting and assessment of total run size for these chum salmon stocks were not nearly as reliable as for the sockeye salmon stocks. Moreover, complications regarding the extended travel time and potential for additional tag loss and mortality for fish bound particularly for Asia required that a number of assumptions and alternative scenarios for mortality be considered. Initially, a single set of stock composition estimates was published (RC 10), but in revisions to the study three "cases" were proposed (RC 12): Case 1 using assumptions that favored higher stock composition estimates for individual AYK chum stocks; Case 2 being the estimates originally published and considered intermediate; and Case 3 which incorporated assumptions favoring stock composition estimates for Asian stocks of chums.

Since the results of this tagging study were published and revised, a comprehensive GSI study was conducted (RC 13), comparing catches sampled from the South Peninsula June fisheries for 1993-1996 against a North Pacific-wide baseline of allozyme signatures for individual chum stocks. The GSI work could not distinguish as well among individual Alaskan stocks as the 1987 tagging study. But it did provide reliable, and repeatable, estimates of the proportion of the June fishery harvest composed of a grouping called the NW Alaska summer chum group comprising Bristol Bay, Kuskokwim, Yukon summer, and Norton Sound chum salmon stocks combined. Finally, the GSI studies confirmed that the Asian contribution to the South Peninsula June fishery harvests was quite high, suggesting that the Case 2 to 3 estimates of the revisions to the 1987 tagging study were more appropriate than Case 1.

The GSI work estimated that NW Alaska summer chum stocks composed between 40 and 65 percent of the South Unimak June chum salmon harvests (1993-1996). Similarly, the NW Alaska summer chum stock composition estimate for the Shumagin Island June fishery (1994-1996) was 36 to 52 percent. A weighted mean of these estimates indicates that about 53% percent of the June fishery chum harvest is composed of NW Alaska summer chum salmon. However, from results of the 1987 tagging study, and from comparisons of respective total run sizes, it is apparent that Bristol Bay chum salmon constitute about 40 percent of the June fishery catch of NW Alaska summer chum in any particular year. Thus, it can be expected that AYK summer chum stocks compose about one-third of the South Peninsula June chum catch.

While stock composition estimates for AYK summer chum in the June fishery harvests may range around 33%, the harvest rate of the June fishery on the millions of fish annually returning to AYK summer chum runs would be much lower.

Based upon an evaluation of the stock-specific "cases" derived from the 1987 tagging study, and information from the GSI work confirming high Asian contributions to the June fishery catches, plus an acknowledgment that most estimates of total returns to AYK systems are low due to relatively poor escapement monitoring, it is apparent that the combined South Peninsula June fishery, prior to 2001, exerted a harvest rate of perhaps 4 to 7% on any particular



AYK summer chum stock. This would mean that roughly 95% of each run was subsequently available to commercial, sport, and subsistence harvests in more terminal locations.

The GSI studies were able to distinguish Yukon fall chum salmon from the other chum salmon stocks in the June fishery catches. Estimates of stock composition ranged from 0 to 6 percent of portions of the June fishery harvests between 1993 and 1996; the resulting estimates of harvest rate on annual Yukon fall chum returns are negligible.

In summary, the chum salmon involved migrate across a broad area. Only a relatively small portion of any run passes through Area M, and of these, only a portion are caught in the June fishery. About one-third of the chums harvested in the June fishery are summer chums bound for AYK river systems; the rest are headed somewhere else. The June fishery harvest rate on this aggregation is only a few percent of the AYK summer chum run. The chums that are present in the June fishery are highly mixed and spread out over the month. There does not appear to be any serious risk that a single chum stock could be significantly impacted by the June fishery. Nor is it possible to manage the June fishery for improvement to specific AYK chum stocks of concern.

This board agrees with prior boards which have found that the impact of the June fishery on specific stocks of AYK chum salmon is negligible and that reducing the chum harvest in the fishery would not produce detectable results or measurable benefits to AYK chum runs. (c.f., board finding # 96-164-FB).

### **III. Problems with Current Plan.**

In 2001, the board removed a longstanding sockeye salmon guideline harvest level (GHL) for the June fishery which equaled 8.3 percent of the total projected harvest of Bristol Bay sockeye each year; 6.5 percent was applied to the South Unimak fishery and 1.5 percent to the Shumagin Islands. The board also eliminated a chum cap that had been imposed on the June fishery, at various levels, since 1986. In place of the sockeye GHL and chum cap, the board established nine 16-hour open fishing periods (144 total hours), between June 10 and June 30 along with some other incidental prescriptions. The effect of this new management plan was a substantial reduction in sockeye salmon catches but not much reduction in chum salmon catches; the exact opposite of the long-standing June fishery management objectives of harvesting the historical percentage of sockeye while minimizing chum harvest.

The 2001 June fishery management plan was a significant break with prior plans. Now that it has been in place for three years, its problems are evident. The main problem is that it severely limits the time the fleets have on the water. This denies the fleets the flexibility needed to avoid chum salmon. The fleets do not have the ability to move away from a concentration of chum salmon, as they have demonstrated in the past. The 2001 plan is not very effective for conserving chum salmon and was unduly restrictive on the fishery's opportunity to harvest sockeye salmon.

### **IV. The New 2004 Plan Amendments.**

The plan amendments in RC 126 replaced the 2001 plan with a schedule providing for a maximum of 416 hours of fishing over a span of 19 days, between June 7 and June 29. Essentially this establishes 88-hour open periods, followed by 32-hour closures (windows); the

final open period is only 64 hours long. This plan will increase allowable fishing time in hours during June by a factor of 2.89 compared with the 2001 regulation. It will increase the number of days available for fishing by a factor of 2.11. A significant amount of the added time will come during nighttime hours, when harvests are expected to be significantly lower than during daytime hours. Depending upon the efficacy of nighttime fishing and other changes in behavior of fishermen, it is anticipated that harvests in the June fishery may double compared to those since 2001, depending upon the annual abundance of sockeye and chum salmon returns. The new 2004 regulations bring the allowable fishing time in the June fishery back to levels experienced prior to 2001 but, with reductions in fleet size and other changes since the late 1990s, it is unlikely that catches will exceed, or even return to, levels experienced prior to 2001.

The board has given weighty consideration to concerns expressed about potential impacts of the plan amendments on Bristol Bay sockeye and western Alaska chums. While the exact net effect that these regulatory changes may have on the South Peninsula June fishery catches is unknown, subsequent harvest rates on Bristol Bay sockeye and AYK chums are not expected to increase beyond the levels experienced in the 1980s and 1990s. Thus, the impact of the June fishery on those stocks, and subsistence fisheries on those stocks, is expected to be minimal. Over the past 20 years or so, the board has experimented with different management approaches for the June fishery, making significant changes every time it has met on the area's fisheries. The 2004 amendments represent another approach in response to the perceived failures of the 2001 measures. If after another three years the 2004 measures result in unexpected consequences, the board will be able to make adjustments accordingly. Based on the information before the board now, no significant harmful impacts are expected on AYK salmon stocks from the 2004 changes.

**V. The 2004 Regulatory Amendments are Consistent with Sustained Yield and all other Statutory and Regulatory Standards.**

The 2004 June Fishery Management Plan is consistent with sustained yield principles, the subsistence statute (AS 16.05.258), the Policy for the Management of Sustainable Salmon Fisheries (5 AAC 39.222) and the Policy for the Management of Mixed Stock Salmon Fisheries (5 AAC 39.220). The board considered the allocation criteria applicable to the fisheries as set out in AS 16.05.251(e) and 5 AAC 39.205.

The board considered the best scientific data available in making its decisions about the June fishery (5 AAC 39.222(d)(2)(A)). As noted above, there is a substantial amount of data on the June fishery and the fishery resources harvested there. Indeed, the board is often faced with tough decisions for other fisheries where there is much less scientific information available to consider than is available for the June fishery. The board believes the decision it has made here is based on sound science and consideration of all the appropriate data and factors. The board considered all the department reports, the advisory committee reports and comments, and the public testimony and written comments. In addition to the information presented at the February 2004 meeting, the board had also recently held a meeting on AYK fishery issues in January 2004 and Bristol Bay issues in December 2003 and there received extensive reports, written comments and testimony concerning western Alaska salmon stocks. The board relied on all this information in reaching its decisions on the June fishery.

**A. Sustained Yield.**

The board understands that sustained yield means “conscious application insofar as practicable of principles of management intended to sustain the yield of the resource being managed.” The board has consciously applied principles of management to the June fishery. It has limited the amount of gear that can be used. It has limited the amount of time that may be fished. The board reviewed the plan in light of the conservation standards contained in the sustainable salmon and mixed stock salmon policies. The best available information shows that the 2004 changes to the June fishery management plan will not cause sustained yield concerns on western Alaska salmon stocks. The plan this board adopted is still a “windows” plan that is consistent with the direction of the sustainable fisheries policy. Department staff stated during final deliberations that they believed sockeye and chum harvest numbers under this plan will fall within the historical range of harvests of the last ten years or so in the June fishery.

Although the revisions to the management plan authorize more fishing time than the plan adopted in 2001, the increased opportunity is not inconsistent with principles of management for a mixed stock fishery that has minimal impacts on AYK chum runs. Principles of management do not suggest that the board should impose substantial restrictions on fishing in Area M during June if the benefits, in terms of improvements to chum stocks of concern, are negligible or not even detectable. In addition, allowing more fishing time in Area M is consistent with the sustained yield of sockeye.

Another important point is that the effort in the June fishery has been significantly reduced because of curtailed harvest opportunity, and in part due to low prices being paid for salmon. So while fishing hours have been increased by the 2004 amendments, the expected increase in harvest will likely to continue to be below that of earlier years because of reduced participation. While the 2004 changes may encourage some level of increase in participation, it is not expected to quickly return to the levels of the 1980s or 1990s.

A large sockeye run is projected to return to Bristol Bay in 2004. Processing capacity in the Bay has declined, and may not be able to handle the catch. Harvesting a portion of these fish in Area M, while they are in prime condition, helps assure that more of the harvestable surplus is taken. The sockeye harvested in the June fishery are high quality and bring considerable value to Alaska Peninsula fishermen and communities and to the state.

#### **B. Sharing the Burden of Conservation.**

The sustainable salmon fisheries policy states that salmon management objectives should be appropriate to the scale and intensity of uses (5 AAC 39.222(c)(3)(A)). The policy also provides that the burden of conservation should be shared among all fisheries in close proportion to their respective use (5 AAC 39.222(b)(4)(D) and (f)(4)). This idea of proportional burden sharing is also found in the mixed stock policy, which likewise provides that the burden of conservation should be shared among all fisheries in close proportion to their respective harvest on the stock of concern (5 AAC 39.220(b)).

Since the June fishery has relatively low impact on any chum stocks (i.e., low harvest rate), including AYK chum, it is not necessarily appropriate to impose substantial restrictions on the June fishery in an effort to conserve specific chum salmon stocks. The management measures adopted in 2001 imposed more conservation burden on the June fishery than was appropriate in view of its low impact on AYK chum stocks of concern.

### **C. The Precautionary Approach in the Face of Uncertainty.**

The 2004 amendments are consistent with the precautionary approach to management urged in the sustainable fisheries policy. Several provisions of the policy indicate that salmon management objectives should be related to measurable risks and benefits; 5 AAC 39.222(c)(5) recommends a precautionary approach in the face of uncertainty; subsection (A)(iv) states that “where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource.” The precautionary approach does not require imposition of significant conservation restrictions where the potential impact of a use is likely so minimal as not to be measurable.

In section 5 AAC 39.222(d), the policy states that management plans should contain goals and measurable and implementable objectives. The policy does not support the idea of imposing management measure whose benefits are not detectable. The sustainable salmon policy does not suggest that the board avoid restoring some amount of fishing time in the June fishery.

A variety of scientific studies have provided a good idea of the stock composition of the fishery and its low impact on migrating chum runs. There is not a great deal of uncertainty concerning the overall effect of the chum harvest in the June fishery. Some suggest that the board should not act without precise knowledge of which AYK chums are being harvested at any given time during the June fishery. This implies a degree of certainty that will likely never exist. The board is acting reasonably based on the information before it.

### **D. The 2004 Amendments are Consistent with the Subsistence Statute.**

The board is well aware of yield and management concerns for chum stocks in northern Norton Sound, particularly in the Nome Subdistrict. The board has taken the steps necessary to provide a preference for subsistence uses in the Nome Subdistrict, including adoption of a Tier II permit system. The board intends to continue monitoring subsistence uses in northern Norton Sound and will take the actions it believes are necessary and appropriate under the sustained yield principle and to provide for reasonable subsistence uses.

Salmon in Norton Sound, and in particular chum salmon in the Nome Subdistrict, are not manageable as a unit with salmon harvested in the Area M June fishery. Previous board findings on this point have been recognized as valid by the Supreme Court of Alaska in its opinion in the case of *Native Village of Elim v. State*, 990 P.2d 1, 12-13 (Alaska 1999). While about one-third of the chum salmon harvested in the June fishery may be AYK chums, the impact of the fishery on any particular chum run is likely very low if measurable at all. The board and the department cannot manage the June fishery in connection with the subsistence fishery for chums in the Nome Subdistrict. Even if some number of chums bound for the Nome Subdistrict is present in the June fishery, the fisheries are very distant from each other, and there are many potential sources of mortality to those chums between Area M and northern Norton Sound. Even a complete closure of the June fishery would not likely produce measurable improvements to subsistence fishing in the Nome Subdistrict or other subsistence fisheries in western Alaska.

### **E. Allocation Issues.**

The board recognizes that its 2004 amendments could have some allocative impacts different from the 2001 plan. In general, these impacts will be insignificant to any one stock. One purpose of the 2004 amendments is to restore some of the historical sockeye allocation to the June fishery. It is not expected that the changes will result in a June fishery harvest that exceeds the long-term historical averages for sockeye harvest. The board reviewed the allocation criteria under AS 16.05.251 and 5 AAC 39.2005 as follows:

1) The history or each personal use, sport, guided sport, and commercial fishery: The history of the fisheries was considered and discussed. There is no developing or existing sport fishery on Area M sockeyes or chums on the South Peninsula. The commercial fisheries have existed since the early 1900s and some subsistence fishing has occurred for thousands of years. Other than Bristol Bay, which is also a long-standing commercial fishery, most commercial fisheries in western Alaska are of more recent origin and are smaller scale fisheries. The subsistence fisheries in the both the Alaska Peninsula and western Alaska predate recorded history. The 2001 amendments resulted in June fishery sockeye catches well below historical averages. The 2004 amendments are intended to return the harvests closer to historical levels.

2) The characteristics and numbers of participants in the fisheries: The number of participants in the June fishery has changed in recent years with fewer than half of the gillnetters and one-fourth of the seiners still fishing as compared to the years of peak fishing activity. The majority of the participants in the June fishery are Alaska residents. The number of participants in some of the western Alaska chum fisheries has also been reduced by closures of commercial salmon fisheries.

3) The importance of each fishery for personal and family consumption: Salmon fishing in both the June fishery and throughout western Alaska are very important for providing residents the opportunity to obtain fish for personal or family consumption. The June fishery itself may not be critical to personal and family consumption; however, it is noted that a subsistence fishery does exist and some salmon are also likely retained from June fishery commercial catches for family use.

4) The availability of alternative fishery resources: Other resources are available to some of the June fishery seiners, who can fish jigs and pots for cod and trawl for some other species of bottomfish if they have made the investment. The driftnetters might be able to jig for cod and rockfish; however, being primarily winter fisheries, opportunity is likely limited. Setnetters mainly fish out of skiffs and likely have few other resources available. In western Alaska, north of Bristol Bay, alternative commercial fishery resources are also limited.

5) Importance to the economy of the state: This is especially critical in that the fish taken in the Alaska Peninsula fisheries are some of the freshest and, therefore, most valuable in the entire state. The value to the fishermen and the state is enhanced since higher prices mean more fish tax dollars. Providing fishing time and the opportunity to catch sockeyes, greatly improves the value of the fishery to all participants. The Bristol Bay sockeye fishery is very important to the economy of the state. The western Alaska fisheries outside of Bristol Bay, while important, are probably not as important to the economy of the state. However, the 2004 changes are not expected to impact those fisheries one way or the other.

6) Importance to the economy of the region and local area: The economy of the Alaska Peninsula area is greatly enhanced with the increased value of the salmon and therefore the

fishery in total. Successful commercial fisheries would be greatly beneficial to the regional and local economies in western Alaska. However, the 2004 changes are not expected to impact those fisheries one way or the other.

7) Importance of recreational fisheries: Recreational opportunities are not a factor in the June fishery. These are primarily chum and sockeye fisheries. Recreational fisheries on Bristol Bay sockeye are important, but rely upon relatively small proportions of any stock's total return.

## VI. Summary

The board finds that the 2004 amendments to the South Peninsula June salmon management plan (5 AAC 09.365) are based upon the best available information and are consistent with the statutory and regulatory criteria for board decisions. Upon adoption of these findings, the Board incorporates by reference all prior findings relative to the Area M June fishery, to the extent the prior findings are unmodified by this finding.

Approved: April 22, 2004

Vote: 4-3



Ed Dersham, Chair

Members votes as follows:

Andrews: Yes  
Bouse: No  
Dersham: Yes  
Jensen: Yes  
Morris: Yes  
A. Nelson: No  
R. Nelson: No

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## PROCEDURES FOR BOARD OF FISHERIES MEETING COMMITTEES

#2000-200-FB

### INTRODUCTION

The description of the processes in this Memorandum are applicable to Board committees that meet during a regulatory Board meeting. They are not applicable to the Board's standing committees and task forces that conduct business throughout the year on number matters. Examples of standing committees are the Joint Protocol Committee that works with the North Pacific Fishery Management Council and the Legislative Committee that is responsible for all matters before the Alaska State Legislature.

The meeting committees consist of Board members only. Members of the public who participate in the committee process are advisers to the committee, but are not committee members themselves. Advisory committee representatives are ex-officio members of any advisory panel to any committee with which they wish to serve.

### DESCRIPTION OF THE COMMITTEE PROCESS

The committee formation process for each regulatory year will commence shortly after proposals for that regulatory year are received and compiled. Appropriate department staff, working with Board members assigned by the Chair, will group and preliminarily assign proposals, grouped by appropriate topic, to committees for each scheduled regulatory meeting during the year. Proposal roadmaps will likewise be developed that mesh with committee proposal groupings. Preliminary staff assignments for committees will also be considered during the initial proposal review.

At its work session each fall, the Board will evaluate and provide further refinement to the draft roadmaps and preliminary committee organization and assignments. Board member responsibilities for and assignments to committees will be determined at the fall work session. The goal is to have all committee structures, including Board member and staff assignments, completed before the respective regulatory meeting occurs. Committee roadmaps with Board member assignments will be distributed to the public after the fall work session. The roadmaps and the committee assignments are subject to change in the face of unforeseen circumstances or changed conditions.

## COMMITTEE PROCEDURES DURING REGULATORY MEETINGS

The practices and procedures to which committees will attempt to adhere during Board regulatory meetings are as follows:

1. Early during each regulatory meeting the Board Chair will provide a brief description of how the committee system works and will further direct the public's attention to the location of a posted committee roadmap and committee assignments. The Chair will also announce that a copy of the Board's Policy Statement and this procedural description on the role of committees is available from the Board's Executive Director upon request.
2. Board committees consist solely of Board members appointed by the Board Chair. Advisory committee representatives and public panel participants are not committee members, but rather are advisors to the committee. Department staff as well as other state and federal agencies staff will provide technical assistance to committees.
  - A) Public panel participants are generally stakeholders in the fisheries under consideration. They may be CFEC permit holders, crewmen, processors, executive directors of associations, and private citizens.
  - B) A Board member will serve as a chairperson for each committee.
  - C) The Board Chair will announce the location and time of all committee meetings.
  - D) All committee meetings are open to anyone that desires to attend, although participation is limited to the advisory committee representatives, the public panel participants, the technical advisors, the department staff and the committee members.
3. Individuals that desire to serve as public panel participants to any committee should make their availability known to the chair of the respective committee. Willingness to serve can be expressed by personal contact with a committee chair or during presentation of formal oral testimony. Committee chairs are to keep a list of prospective public panel participants



during the course of the meeting.

A) Attendance at the Board meeting during the presentation of staff reports and presentation of oral testimony is generally a prerequisite to serving as a public panel participant to a committee at most meetings. This requirement will be most prevalent at meetings having high levels of attendance.

B) Advisory Committee representatives are ex-officio members of all public panels to all committees and may move between committees as they choose.

4. At the conclusion of public testimony, the chair of the respective committees will develop a preliminary list of public panel participants. The goal of the selection process will be to insure, as far as practicable, that there is appropriate and balanced representation of fishery interests on all committees. Tentative assignments will be reviewed by the Board as a whole and then posted for public review. After public review the Board Chair, in session on the record, will ask the public for concurrence or objections to the panel membership. Reasonable adjustments to membership on public panels will be accommodated.

5. Parliamentary procedures for committee work will follow the "New England Town Meeting" style. Public panel participants, upon being recognized by the committee chair, may provide comments, ask questions of other public panel members, ADF&G staff or the committee members or may otherwise discuss the issues assigned to a committee. Committee chairs will attempt to manage meetings in a manner that encourages exchange of ideas, solutions to complex issues and resolution of misunderstandings. Participants are required to engage in reasonable and courteous dialogue between themselves, Board committee members and with ADF&G staff. Committee meetings are intended to provide opportunities for additional information gathering and sometimes for dispute resolution. Committees are not a forum for emotional debate nor a platform for repeating information already received through public testimony and the written record. Department staff will be assigned to each committee to keep notes of discussions and consensuses reached, if any.

A) Formal votes will not normally be taken by the committees, but proposals or management plans that

receive public panel consensus, either negative or positive, will be noted in the committee report.

B) The committee process, in the absence of consensus will attempt to bring greater clarity to individual proposals and to complex conservation or allocation concerns.

6. Advisory Committee representatives serving on public panels are not constrained to merely presenting the official positions of their Advisory Committee (as is required while providing public testimony). When participating in the committee process, Advisory Committee representatives may express both the official positions of their committee as well as their personal views on issues not acted upon or discussed by their Advisory Committee. They must, however, identify which of the two positions they are stating. The Board recognizes Advisory Committee representatives as knowledgeable fisheries leaders who have a sense of their community's position on issues that come before the Board. Therefore, the Board believes that Advisory Committee representatives must be able to function freely during committee meetings.

7. After a committee has completed its work with its public panel, the committee chair will prepare a report with assistance from other members of the committee and department staff. The format of this report, which becomes part of the public record, is attached to this policy. The primary purpose of a committee report is to inform the full Board of the committee work in synopsis form. The report will additionally serve as a compilation index to Advisory Committee, public and staff written materials (record copies, public comments and staff reports) relative to the proposals assigned to the respective committees. Committee reports will be clear, concise, and in all cases, will attempt to emphasize "new information" that became available during the committee process, i.e., information that had not previously been presented to the full Board in oral or written form.

A) In order to provide focus, committee reports should include recommendations relative to most proposals.

B) If a committee has developed a proposal to replace or modify an existing proposal, the substitute proposal should be prepared and attached the to

committee report.

- C) Committee reports will not include recommendations for proposals when such recommendations will predetermine the ultimate fate of the proposal. For example, when the full Board consists of six or few voting members (because of absence, abstention or conflict of interest) a committee of three should not provide a negative recommendation on a proposal.
8. Committee reports will be made available to the public in attendance at the meeting prior to the Board beginning deliberations on proposals. The Board Chair will publicly announce when reports are expected to be available for review by members of the public. The public will be encouraged to provide written comments to the Board (submittal of record copies) regarding the content of the committee reports and/or to personally contact Board members to discuss the reports.
- A) The Board Chair will provide sufficient time between release of committee reports and deliberations for the preparation of written comments or for verbal communications with individual Board members to occur.
9. Board deliberations will begin after the full Board has had time to review committee reports, after the public in attendance has had an opportunity to respond to the reports, and after the full Board has had an opportunity to review the public's comments made in response to the committee reports. During the course of deliberations, committee chairs will present their committee's report and initially will lead the discussion relative to proposals assigned to their committee.
10. The full Board shall be involved in the debate or discussion of all proposals and will make regulatory decisions based on all information received to the record, including information from committees.

Adopted by the Board in Anchorage on March 23, 2000.

Vote: 6-0-1  
(Miller absent)

  
Dan K. Coffey, Chairman

**ALASKA BOARD OF FISHERIES**  
**POLICY STATEMENT**

**Policy for Formation and Role of Committees at Board Meetings**

#2000-199-FB

**INTRODUCTION**

During the past three (3) years, in response to its workload and in a desire to increase public participation, the Board has employed a committee process during the course of its meetings throughout the state of Alaska. This committee process has changed and developed over these three years in response public and department comments and the experiences of the Board in using the committee process.

It is expected that this process will continue to evolve as the needs of the public, the Board and the Department continue to evolve. As such, the committee process is meant to be dynamic and flexible. However, despite the expected future refinements, now that the committee process has been through a three-year Board cycle, it is appropriate for the Board to consider formal adoption of a Policy Statement on the Board committee process.

The Board recognizes that the public relies on the predictability of the regulatory process. The purpose of adopting this Policy Statement and the attached description of the committee process is to place the committee process in the records of the Board. Thus, the adoption of this Policy Statement will define the purpose, the formation and the role of Board committees. Over time, all participants in the Board process can be knowledgeable and effective participants before the Board of Fisheries.

**DISCUSSION**

A major strength of the Board committee process lies in its broad-based public participation format. To accommodate greater levels of public involvement, to enable the Board to receive and utilize the volume of information presented to it and to effectively handle the increased number of proposals seeking regulatory changes, the Board has found it desirable to create internal Board committees. The Board has found that these committees allow the Board to complete its work timely and effectively, with full consideration of the content and purpose of the many proposals before it each year.

The Board considers the use of committees as an expansion of its traditional processes; not as a replacement for such long-standing information gathering activities as staff and advisory committee reports, public testimony, written comments or informal contacts between Board members and the public. The Board committees are intended to enhance the process, not become a substitute for existing process.

While the committee process, of necessity, involves less than the full Board, nothing about the committee process is intended to, or has the consequence of, replacing the judgment of the full Board on all proposals before it at any regulatory meeting. The Board has taken steps to insure that its committees do not dictate/direct the outcome of any vote on any proposal. These steps include limiting participation by Board members to less than the number of Board members necessary to determine the outcome of the vote on any proposal. In addition, Board committees avoid predetermining the outcome by organizing the written materials presented to the Board so that they are readily available for review by the full Board, by presenting detailed reports on the committee's work and by fostering and encouraging debate during the deliberative process.

The goals and purposes of the Board committee process include but are not limited to the following:

1. Acquisition of additional detailed information from both the public and staff.
2. Providing a consensus-building forum that assists in the understanding and resolution of complex and controversial conservation, allocation, fishery resource, habitat and management issues.
3. Enhancing the interaction among the Board, the public and department staff which results in broader public understanding of the regulatory decisions of the Board and the Department's management of the fisheries.
4. Promoting efficient use of time by organizing and grouping similar proposals, reducing redundancy and organizing the huge volume of written materials provided before and during meetings by the department and the public.
5. Insuring completion of the Board's work within fiscal and temporal constraints.

The Board now finds as follows:

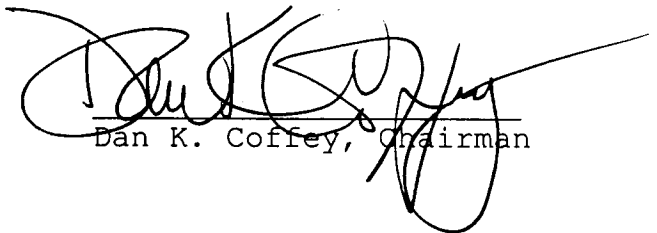
1. The goals and objectives are appropriate;
2. The statements of fact accurately reflect the beliefs and opinions of the Board as to the matters stated;
3. The committee process has, over a full three-year cycle of the Board, resulted in the goals and objectives having consistently been met.

Based on the findings, the Board of Fisheries resolves as follows:

1. The Policy Statement is hereby adopted as the policy of the Board of Fisheries.
2. The description of the committee process attached to this Policy Statement will be followed, in most circumstances, by the Board during the course of its regulatory meetings, subject always to the exceptional circumstance as determined by the Board.
3. The committee process is intended to be dynamic and flexible to meet the needs of the public, the Board and the Department. Thus, this Policy Statement and the attached description of the committee process are subject to ongoing review and amendment by the Board.

DATED at Anchorage, Alaska this 23rd day of March, 2000.

\_\_\_\_\_  
Vote  
(Miller Absent)

  
\_\_\_\_\_  
Dan K. Coffey, Chairman

**ALASKA BOARD OF FISHERIES  
POLICY ON WRITTEN FINDINGS FOR ADOPTION OF REGULATIONS  
99 - 184 - BOF**

Generally, written findings explaining the reasons for the Board of Fisheries' regulatory actions governing Alaska's fisheries are not required by law. The Alaska Supreme Court has specifically held that decisional documents are not required where an agency exercises its rulemaking authority. *Tongass Sport Fishing Association v. State*, 866 P.2d 1314, 1319 (Alaska 1994). "Adoption of a decisional document requirement is unnecessary and would impose significant burdens upon the Board." *Id.* The Board recognizes, however, its responsibility to "clearly voice the grounds" upon which its regulations are based in discussions on the record during meetings so that its regulatory decisions reflect reasoned decision-making. *Id.* The Board also recognizes that there may be times when findings are appropriate to explain regulatory actions that do no result in adoption of a regulation.

Even though written findings are generally not a legal requirement, the Board recognizes that there are certain situations where findings are, in fact, legally required or advisable or where findings would be useful to the public, the Department of Fish and Game, or even the Board itself. The Board will, therefore, issue written findings explaining its reasons for regulatory actions in the following circumstances:

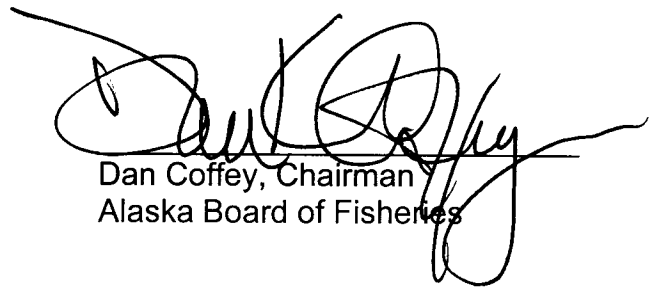
1. The Board will provide written explanations of the reasons for its decisions concerning management of crab fisheries that are governed by the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs as required by that plan.
2. The Board will, in its discretion and in consultation with the Department of Law, provide written findings for regulatory decisions regarding issues that are either already the subject of litigation or are controversial enough that litigation is likely.
3. The Board will, in its discretion, provide written findings for regulatory actions where the issues are complex enough that findings may be useful to the public in understanding the regulation, to the department in interpreting and implementing the regulation, or to the Board in reviewing the regulation in the future.
4. The Board will, in its discretion, provide written findings for regulatory actions where its reasons for acting are otherwise likely to be misconstrued by the public, the legislature, or other state or federal agencies.

The chair will assign responsibility for drafting written findings to board committees, individual board members, department staff (with division director approval), or others, as appropriate for the circumstances.

Written findings must be approved by a majority of the full Board membership. Approval may be by a vote on the record at a Board meeting or by individual signatures of Board members upon circulation of a written finding. Only those Board members that participated in the regulatory decision will be eligible to vote on the findings for that regulatory decision. Board members are not required to vote for or against adoption of findings based on their individual vote on the underlying regulatory decision. A Board member who votes in favor of the regulatory decision may vote against adoption of the findings; a Board member who votes in opposition to a regulatory action may, nevertheless, vote for adoption of the written findings.

Written findings adopted by the Board will be numbered according to year and sequence of adoption. The executive director will maintain copies of all Board findings and make them available for review by the Board, department, and the public.

ADOPTED: 10/27, 1999  
Fairbanks, Alaska



Dan Coffey, Chairman  
Alaska Board of Fisheries

VOTE: 7/0



96-165-FB

(Previously)  
Finding # 96-09-FB

## ALASKA BOARD OF FISHERIES

### FINDINGS

#### CONCERNING NORTH ALASKA PENINSULA FISHERIES

The Board of Fisheries (board), in its January 16 through 29, 1996 meeting, considered proposals pertaining to fisheries in the Northern District of the Alaska Peninsula area. These findings are intended to summarize the board's actions on these proposals so that the public and future boards will understand the reasons for these actions.

#### Background

The board held its regularly scheduled meeting on proposals for changes to regulations in the Alaska Peninsula area during February-March, 1995. However, the board was unable to complete its work on all the proposals during that meeting, including proposals relating to the Northern District. The board publicly noticed another meeting to begin on January 16, 1996, to consider the proposals left over from the prior meeting.

Most of the proposals presented to the board requested that the board restrict the fisheries in the Northern District, particularly the drift gillnet fishery. These proposals took many forms. Some sought to restructure the fishery by creating small terminal areas around the mouths of rivers, by moving section boundaries west, or by limiting the distance from shore that drift gillnetters would be allowed to fish. Other proposals asked for delays in the season or opening dates of sections within the Northern District. Still other proposals urged the board to reduce the size or amount of gear that drift gillnetters would be allowed to use in the Northern District. There were also proposals to impose limits on the harvest of fish in the Northern District. The premise underlying all these proposals was that the fisheries in the Northern District, and particularly in the Three Hills and Ilnik Sections, intercept an excessive amount of sockeye bound for Bristol Bay.

The question of whether and to what extent the Northern District fisheries intercept Bristol Bay salmon was the subject of several staff reports, both written and oral. This issue was also addressed during public testimony and in written comments from the public; over 150 people testified and/or submitted written comments during this meeting, and a substantial portion of this public input pertained to the North Peninsula.

Staff Comments

The Alaska Department of Fish and Game (department) presented a number of reasons why previous studies estimating substantial interception at certain times and in some areas, based on scale pattern analysis, were no longer reliable and should not be used to draw conclusions about the stock composition of the fishery. The department assumes that there is some harvest of Bristol Bay bound sockeye at some times and in some areas of the Northern District, but is unable to quantify the amount of that interception or determine when and where it might occur. The department also acknowledged the likelihood that North Peninsula bound sockeye are intercepted in the east-side fishing districts of Bristol Bay.

The department presented additional information indicating that North Peninsula sockeye spawning systems have the potential to produce an amount of sockeye salmon that is more than sufficient to support recent harvest levels.

The department also described the development of the management regime in the Northern District, based on the nature of the coastline and duration of the salmon runs returning to local river systems. In general, by dispersing the fleet along the coast, management is able to obtain a steady stream of escapement from all portions of the runs and promote an orderly fishery that harvests and delivers fish in a predictable manner. While maintaining its neutrality on the allocative implications of the proposals, the department expressed concerns that restructuring the management system which it has evolved in the Northern District could lead to management errors and problems meeting or exceeding escapement objectives, could decrease the managers flexibility, could create problems for the fleet during bad weather, and may disrupt the current orderly harvest.

The board also received information on the current status of Bristol Bay sockeye runs. There are currently no conservation concerns for Bristol Bay sockeye systems and harvests are at record levels.

Public Comments

Scientific and anecdotal testimony and written comments from persons opposed to changing management in the Northern District significantly disputed that there is any substantial level of interception of Bristol Bay sockeye along the North Peninsula. This included information on the probable sockeye salmon migratory patterns as determined from exploratory fishing and oceanography studies and the Port Moller test fishery; travel times from tagging on the South Peninsula; age composition comparisons between North Peninsula catches and catches in the test fishery and in Bristol Bay; and fisherman's behavior, all indicating that the sockeye within three miles of the coast both in the eastern portion of Bristol Bay and along the North Peninsula are largely moving southward out of the bay, not northward, to find their natal streams. These persons also provided considerable information on the advantages of dispersed management. Supporters of the proposals to restrict the North Peninsula fishery argued that, even if the board was unable

96-165-FB  
<sup>previously</sup>  
(96-09-FB)

to quantify the magnitude of any intercept of Bristol Bay fish in the Northern District, run timing and other information suggested that Bristol Bay stocks were harvested there. The board also received testimony concerning the growth in effort and harvest levels in various North Peninsula fishing districts and in fishing districts in the east side of Bristol Bay. Recent increases in sockeye catches in both areas appear to have resulted from increased abundance of sockeye returning to both the North Peninsula and Bristol Bay, respectively.

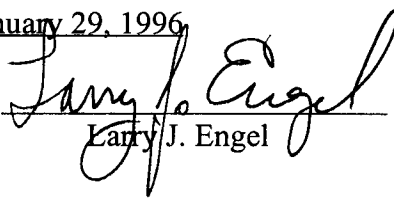
Summary of Board Action

Like past boards that have rejected proposals to restructure the North Peninsula fisheries, the board found no reason to reduce fishing districts, seasons, or harvests in the Northern District. The board recognizes that there may be some amount of interception of Bristol Bay fish in the Northern District. The board further finds that the Northern District Fishery is not an expanding fishery, and does not warrant action under the board's mixed stock policy.

The board did make two changes to North Peninsula regulations. The board amended 5 AAC 09.310 (a)(1)(3) to make the line at Unangashak Bluffs in the Inik Section a longitude line rather than a loran line. This change brings this management line into conformity with other boundary lines in the area, all of which are based on longitude rather than Loran lines, and is intended to provide for an orderly fishery. The board also adopted a regulation to clarify that management of Northern District fisheries is based upon established fishing periods, unless superseded by emergency orders. This change simply codified existing practice by the board.

Approved: January 29, 1996

Board Chair:

  
Larry J. Engel

Vote: 4-3 (yes - no)

96-164-FB

(Previously  
Finding # 96-08 - FB]

**ALASKA BOARD OF FISHERIES**

**Findings**

**South Peninsula June Fishery**

**April 15, 1996**

**BACKGROUND**

The Alaska Board of Fisheries took action on the South Unimak and Shumagin Islands June Fisheries (combined known as the South Peninsula June fishery) at a special meeting held on April 13, 14, & 15, 1996 in Anchorage. The special meeting was preceded by a meeting in Anchorage which started on March 10, 1996. On March 16, 1996, the Board took staff reports and Advisory Committee oral reports which continued through March 19, 1996. In addition, written comments from the public were received through April 14, 1996.

The Alaska Department of Fish and Game (ADF&G) staff presented a series of written area management reports, technical reports, and scientific analyses as well as a number of oral reports. These provided the Board with comprehensive information relating to the historical and current commercial and subsistence fisheries, stock composition of the respective fisheries, the status of salmon stocks not only in the Alaska Peninsula/Aleutian Islands area, but also in Bristol Bay, the Kuskokwim, Yukon, Norton Sound and Kotzebue areas and, finally, the most recent scientific information and analysis of that information by the staff. After receiving, reviewing and questioning this wealth of information, deliberations began on this matter on April 13, 1996.

These meetings were publicly noticed as required by AS 44.62.190-210. This meeting, as other recent and historic meetings on the same topic, drew considerable public attendance and written and oral testimony. Because of the volume of previous information, oral testimony was taken from the Advisory Committee representatives and written comments were received from the public. Nevertheless, the volume of materials presented to the Board was very considerable.

The Board's deliberations were delayed from the initial meeting, not only to conform to the notice requirements of the Administrative Procedures Act, but also to permit members of the public to provide additional written materials to the Board, to permit the two (2) new Board members to review and digest the

- Original -

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Page 2

volumes of information relative to this matter and to permit the staff of the Department to respond in a comprehensive manner to requests by various Board members for information on this matter.

#### ADOPTION OF GUIDING PRINCIPLES

Initially, in an effort to develop a consistent set of guiding principles, the Board reviewed and discussed the adoption of the Guiding Principles from the Upper Cook Inlet Salmon Management Plan. These principles were modified for application to this fishery and were unanimously adopted by the Board as part of the Management Plan. The Board was cautioned that these principles cannot be applied at this meeting as if they were already in regulation, but that individual Board members may use these principles to guide their decision-making process. The principles are stated as follows:

The Board will, to the extent practicable, consider the following guiding principles when taking actions associated with the adoption of regulations regarding the South Unimak and Shumagin Islands June Salmon Management Plan:

1. The conservation and sustained yield of healthy salmon resources and maintenance of the habitat and ecosystem which salmon and allied species depend for survival throughout their life-cycle.
2. The maintenance of viable and diverse fish species and stocks.
3. The maintenance of the genetic diversity of fish species and stocks.
4. The best available information presented to the Board.
5. The capability of being implemented and evaluated, including factors such as flexible and adaptive management, conflict with other law, and mixed stock management.
6. The capability of providing tangible benefits to user groups, or conservation, with the least risk to existing fishers and to conservation.
7. The stability and viability of subsistence, recreational, commercial and personal use fisheries.

-Original-

ORDER OF ASPECTS OF REVIEW

The Board next discussed how it would review this fishery. Judge Erlich's decision was examined and discussed. The Board then established seven (7) critical aspects of his decision to be used to guide its deliberations as follows:

1. The history of the South Peninsula and the Norton Sound fisheries.
2. The scientific/rational data available for the concerned fisheries.
3. Principles of sustained yield.
4. Mixed stock policy.
5. Subsistence.
6. Sockeye to Chum Salmon Ratios.
7. The Allocative Issues.

HISTORY

Following establishment of this format, the Board began its deliberations with a discussion of the history of each fishery. Both fisheries have been the subject of state regulatory actions commencing in 1962 and continuing through the present day. These actions were taken to regulate both the commercial and subsistence harvest as well as to address conservation issues (see RC 19, colored tab 2 and colored tab 6).

The Aleut and Eskimo people of both areas have a cultural and traditional history of utilization of chum salmon which predates recorded history. The commercial exploitation of chum salmon in the June fishery is at least as old as 1908 when the first recorded catches were made. The commercial fishery for export in Norton Sound, is of much more recent development, beginning in the 1960's (see RC 27), although the Nome commercial fishery for barter and trade existed at least as early as the 1890's.

This historical data demonstrates that the greater the abundance of the chum salmon, the greater the number of salmon which are harvested in both fisheries. In the commercial fishery, this abundance/harvest factor is also affected by market demand for the salmon. In the subsistence fishery, the abundance/harvest factor is also affected by subsistence needs.

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#### SCIENTIFIC AND FACTUAL DATA

The Board next reviewed and discussed the scientific and factual data. This data consisted of the 1987 tagging studies as revised and analyzed by staff (RC 19, colored tab 3), the Genetic Stock Identification studies (RC 19, colored tab 3 and white tab 7), the reported commercial and subsistence harvest data, the spawning escapement surveys and the subsistence harvest assessment in Norton Sound (RC 2). Run timing data was also presented and considered by the Board. Because of staff concerns about total return estimates and measurements of accuracy and precision of the Harvest Rate Analysis Report previously provided to the Board, the Department advised that it was not prepared to present the Harvest Rate Analysis Report to the Board (RC 19, colored tab 5).

The GSI study clearly demonstrated that approximately 60% of the chum salmon harvest in the South Unimak June fishery in Area M in 1993 and 1994 originated from spawning streams in an area called "Northwest Alaska" which includes Norton Sound, the Yukon River (summer chum), the Kuskokwim area, Bristol Bay and populations of the North Peninsula extending as far west as the Meshik River. Thus, the GSI study was not, by itself, sufficiently area or origin specific enough to enable the Board to decide issues relative to Norton Sound and the June fishery. This GSI study, while helpful in the aggregate, does not permit the Board to discriminate as to individual stocks or as to stocks which have been identified as having a conservation concern.

The tagging study is helpful to the Board's decision-making process because it provides evidence relative to the stock composition of chum salmon in the June Area M fishery, a mixed stock fishery. This study provided the earliest data to the staff and the Board. The tagging study assumed that, in a mixed stock fishery, the relative rate of harvest in the fishery is directly related to the size of the stock in the fishery. The data, the number of tags recovered from various areas, supported this assumption. With the subsequent review and analysis by the staff and the Board, this data has been refined and qualified to the point where it can, when coupled with the other data available to the Board, be reasonably relied upon to make rational decisions relative to these fisheries. The 1987 tagging study demonstrated that some chum salmon are caught in Area M which are bound for spawning streams in Norton Sound.

From all of the scientific data and related data, the Board concludes that the composition of chum salmon in the Area M June fishery contains a relatively small number of Norton Sound chum salmon.

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### SUSTAINED YIELD

The Sustained Yield discussion by the Board began with a discussion of the Alaska Constitution. Reference was made to the proceedings of the Constitutional Convention and the glossary of terms found in the Convention Papers, folder 210. This definition is as follows:

When so used it [sustained yield] denotes conscious application insofar as practicable of principles of management intended to sustain the yield of the resource being managed. That broad meaning is the meaning of the term as used in the Article.

It was also noted by the Board that in the Convention proceedings that, as to fisheries, the term sustained yield principle was not intended to apply in the strict sense in which it is applied to forestry practices. The drafters realized, full well, that it would be impossible to determine the exact sustained yield in the fisheries and that sustained yield would be left to the state legislature and probably, by the legislature, to the fisheries agency.

The general conclusion reached by the Board is that the Constitution contemplates very wide discretion in the Board of Fisheries in making sustained yield determinations.

With regard to the Norton Sound area, there are some rivers in Nome and Moses Point subdistricts (RC 19, colored tab 6, page 98) for which the department has conservation concerns. The Fish River was removed from this classification after the 1995 season. The escapements for four (4) of the remaining rivers have been met in the last two (2) years. The escapements for the other four (4) rivers have not been met based upon the aerial surveys; however, the escapements, even as measured by the aerial surveys, have improved each of the last two years.

The other staff reports and data demonstrate that all other Norton Sound chum salmon stocks are in good abundance. Based on these improvements and its prior conclusions as to the Norton Sound component of the June area M fishery, the Board concludes that further reductions in the June Area M fishery would not alleviate the remaining conservation concerns for these rivers.

### MIXED STOCK POLICY

The Board next discussed the Mixed Stock Policy. The Board recognized that the Area M June fishery has, under the existing Management Plan, already shouldered a substantial burden

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related to the conservation concerns for Western Alaska Chum salmon stock. These measures include a delayed opening date, the chum cap, the reduction in gear size, the pre-season closures of various areas, the in-season closures of "hot spots," the sockeye to chum salmon ratios and the July 1 to July 19th closure of the South Peninsula fishery (5 AAC 09.366). These measures have all resulted in substantial burdens of conservation being imposed on the Area M fishery by removing the opportunity of these fishers to harvest hundreds of thousands of sockeye salmon. Further, the way in which the Department has implemented the Management Plan has resulted in an additional savings of chum salmon substantially below the cap (see RC 19, colored tab 1 and white tab 1).

The Board recognized that a burden of conservation has also been imposed on the Nome and Moses Point/Elim subdistricts. The commercial chum salmon fisheries in the Nome and Moses Point/Elim subdistricts has been closed for a number of years. The subsistence chum salmon fishery in the Moses Point/Elim subdistrict was closed for one year (1994). The chum salmon subsistence fishery has been reduced, restricted, or closed in the Nome subdistrict for over a decade.

Based on the foregoing and its prior conclusions based upon the information set forth above, the Board concludes that both areas have had a burden of conservation imposed upon them which is fair and proportional to their respective harvest of the chum salmon stock.

#### SUBSISTENCE

Dealing with subsistence, the Board assumed, for the purpose of this special meeting and this actions on the June M fishery, that the Norton Sound chum salmon is a separate fish stock under the subsistence law. In its earlier finding of "customary and traditional" uses of salmon in Norton Sound, the Board determined that a total of 85,300 salmon (all species) were necessary to provide a reasonable opportunity for subsistence uses of salmon in Norton Sound. The chum salmon component of the 85,300 determination was 22,491 chum salmon. At this meeting, the Board discussed and found that 22,491 chum salmon would be necessary to provide a reasonable opportunity for subsistence use of chum salmon in Norton Sound.

Information presented to the Board demonstrated that in 1994, 24,776 chum salmon were harvested in Norton Sound subsistence fisheries. For 1995, the data showed that 43,015 chum salmon were harvested in the Norton Sound subsistence fisheries. The harvest in both years exceeded the 22,491 level necessary to provide a reasonable opportunity for subsistence use (RC 2).

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Testimony from the staff relative to the 1996 anticipated return was that an average return for Norton Sound chum salmon was expected with abundance levels similar to 1995. There was no testimony before the Board that the 1996 run would not provide at least 22,491 chum salmon for subsistence harvest. While certain restrictions, including restrictions which change the fishery practices from the traditional in-river fishery, have been imposed on the subsistence fishery in the Nome subdistrict of Norton Sound, it appears that, in recent years and for 1996, a reasonable opportunity for chum salmon has been and will be provided under the existing regulatory scheme. In this regard, it should be noted that a subsistence fishery was allowed for chum salmon in the Nome subdistrict on three of the rivers for which the department has expressed conservation concerns (Eldorado, Flambeau and Bonanza).

In accordance with the Superior Court's summary judgment order, the Board will, after proper legal notice, address the status of chum salmon as a separate subsistence stock at a future meeting.

#### RATIOS

The Board next considered the question of the ratios. The department gave an extensive explanation of its use of sockeye to chum ratios in opening the fishery, managing the fishery and closure of the fishery. The department has regularly and consistently delayed the start of the June fishery beyond June 10 to achieve a satisfactory sockeye to chum ratio that would best meet the twin goals of the Management Plan. Those goals are to catch sockeye salmon to the guideline harvest level while, at the same time, minimizing the incidental catch of chum salmon.

The opening ratio is determined annually by the department based upon the projected Bristol Bay forecast and the 8.3% harvest allocation. The department stated that fixing a set ratio or a definite, inflexible opening date which would always apply to the fishery would interfere with its ability to best meet the plan's two goals.

The Department explained that the June 24th 2:1 sockeye to chum ratio is based on the run timing considerations of both sockeye and chum, historic ratios of chum and sockeye during late June, concern for chum salmon conservation in locations outside of Area M and to prevent an accelerated "catch up" action in the later part of the season to harvest up to the full amount of the chum cap.

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### ALLOCATION ISSUES

The Board then reviewed and discussed the allocation criteria found in 5 AAC 39.205. Each of the seven (7) criteria was considered. The history of both fisheries was reviewed and discussed in great detail early in the deliberations as were the characteristic and the participants in the fisheries. The Board acknowledged that personal and family consumption of fish was more important to the subsistence fishers in Norton Sound than to the commercial fishers in Area M. From a commercial fishery point of view, the alternative fisheries resources available to both fishers are limited. From a subsistence point of view, the reduction in opportunity relative to chum salmon can be substituted with other salmon species. The Board found that both fisheries are important to the economy of their respective regions, but that, due to its size and composition, the dollar value of the Area M fishery is more important to the economy of the state. The issue of recreational for residents and non-residents was not viewed as a relevant consideration.

### BOARD ACTIONS

Next, the Board considered amendments to the existing Management Plan 5 AAC 09.365. Board Member Umphenour moved to reduce gear size. After discussion, this motion failed, two in favor and four opposed.

Board Member White then moved to reduce the chum cap from 700,000 to 500,000 with a float of 50,000 depending upon the conservation concerns or the lack thereof relative to river systems in Western Alaska including Bristol Bay. The intent of the motion was to reduce the cap by ten percent if more than 15 AYK-Bristol Bay summer chum stocks had conservation concerns (as delineated by the Department of Fish and Game in its Run Outlook definitions). Likewise, if AYK-Bristol Bay summer chum stocks experience a two-year 20 percent increase in run abundances, the cap would be adjusted upwards by ten percent to 550,000 fish. After discussion, this motion failed, two in favor and four opposed.

Board Member Umphenour moved to require the retention and recording on fish tickets of all salmon caught in the June fishery. After discussion, the motion passed, seven in favor and none opposed. It should be noted that Board Member Angansan was declared not to have a conflict relative to this issue and participated in the vote.

Finally, White moved to adopt the sustained yield principles contained in RC 9 and RC 12 into the June Management Plan. After discussion, the motion failed, one in favor and six

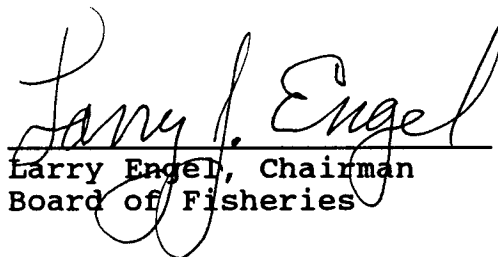
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opposed. Again, Board Member Angansan was declared to have no conflict and participated in the vote.

This and other issues best described as principles to be applied to mixed stock fishery decisions were then scheduled for the October work session by unanimous vote.

Upon the adoption of these findings, the Board incorporates by reference all prior findings relative to the Area M June fishery, to the extent that these prior findings are unmodified by this Finding.

  
Larry Engel, Chairman  
Board of Fisheries

Approved: Carried (5/1/1) (Yes/No/Abstain)

Date: April 15, 1996

Location: Anchorage, Alaska

-Original-

**Alaska Board of Fisheries  
Findings  
Chum Salmon Conservation Measures For The  
Arctic-Yukon-Kuskokwim and South Unimak/Shumagin Islands June  
Fisheries**

A. Background:

By legal notice dated February 1, 1994, the Alaska Board of Fisheries (board) announced its intention to consider chum salmon conservation measures throughout the Arctic-Yukon-Kuskokwim (AYK) and in the South Unimak/Shumagin Islands June fishery at its regularly scheduled board meeting in March 1994. The board meeting drew considerable public attendance and testimony. The board heard testimony from approximately 175 members of the public and 10 advisory committees. The board also reviewed a considerable volume of written comments submitted by the public prior to and during the meeting. The Alaska Department of Fish and Game (ADF&G, department) presented a comprehensive review of the information available for the AYK chum salmon stocks and fisheries and for the South Unimak/Shumagin Islands June fishery.

The board has examined the Alaska Peninsula June fisheries and their relationship to the AYK chum salmon stocks and fisheries numerous times. See board findings FB-1-92 and FB-06-92.

During the summer of 1993, it became apparent that AYK and other Alaska chum salmon returns were well below expectations, due primarily to the lack of four year old spawners.

Consequently, when the board met in October 1993 to review agenda change requests and petitions, the board considered requests to revisit the chum salmon cap in the South Unimak/Shumagin Islands June fishery. The board found that these requests did not meet the criteria set out in 5 AAC 39.999 for taking the matter out of cycle. Additionally, ADF&G indicated there was no new information regarding chum salmon stock identification in the South Unimak/Shumagin Islands June fishery. Nor was there any indication from ADF&G that the estimated 2.5 million missing AYK chum salmon were related to the June fishery.

Immediately after the board adjourned its October 1993 meeting, the commissioner of ADF&G called a special meeting of the board for December 1993 to consider any and all actions to address the chum salmon conservation problems in the AYK fisheries.

The special informational meeting was convened on December 1 - 4, 1993 in Anchorage so that the board could consider scheduling matters for a regulatory meeting aimed at addressing the various AYK chum salmon problems. At the December meeting, the board heard three days of public comment from 80 members of the public and 9 advisory committees, and numerous staff reports

concerning chum salmon stocks from the Alaska Peninsula through nearly the northern extent of their range in the Kotzebue area. The meeting was not noticed for regulatory action, but the board agreed to review a number of department options addressing conservation concerns throughout the suspected range of AYK chum salmon stocks. The board eliminated a specific 300,000 fish reduction in South Unimak/Shumagin Islands chum cap, but did agree to re-examine that cap at the March 1994 meeting.

The department-generated proposals were initially published with the February 1, 1994 public notice, with revised set of proposals published in early March for public review and comment and scheduled for board consideration at the March 1994 meeting.

At the March board meeting, the board considered six proposals submitted by the department. The proposals provided generally for an AYK region wide rebuilding plan that would allow chum salmon saved in a fishery to pass through to the spawning grounds, provide the department with greater flexibility for inseason management to conserve chum salmon during fisheries for other salmon, and where possible, provided additional opportunities for subsistence fisheries while protecting chum salmon stocks. The actions taken by the board for the AYK fisheries and for the South Unimak/Shumagin Islands June fishery are generally as set out in Section B of these findings.

#### B. Summary of Regulatory Changes Adopted by the board:

The board took action to conserve AYK chum salmon stocks and to allocate the burden of conservation consistent with the "Policy for the Management of Mixed Stock Salmon Fisheries" [5 AAC 39.220]. With respect to the AYK fisheries, these measures are intended to minimize, if necessary, the taking of chum salmon while allowing subsistence fishing of other salmon species. These measures also provide for the commercial and sport harvests of other salmon species where escapement is met and subsistence is provided for and there is additional harvestable fish.

With respect to the South Unimak/Shumagin Islands June fishery, these measures provide the department with additional flexibility to further minimize the possibility of large chum salmon harvests by maximizing fishing opportunity during periods of high sockeye to chum salmon ratios.

Proposal No. 1: The board adopted an overall Arctic-Yukon-Kuskokwim Region Chum Salmon Rebuilding Management Plan with the guiding principle that the savings of chum salmon resulting from regulatory actions in a fishery to reduce chum salmon interceptions should be allowed to pass through subsequent fisheries to the spawning areas as needed to maintain sustained yield. This plan applies to all AYK chum salmon stocks and fisheries and to the South Unimak/Shumagin Islands June fishery.

Proposal No. 2: The board took action to make the harvestable surplus of chum salmon at the Sikusuiqa Springs Hatchery available to Kotzebue area

commercial fishers using set gillnets through emergency orders issued by the department. This action will maximize harvest on excess hatchery stocks returning to the Sikusuilaq hatchery, while intercepting wild chum salmon stocks as little as possible.

Proposal No. 3: In the Norton Sound-Port Clarence area, the board provided the department with authority to target commercial fishing on Chinook salmon by using larger mesh gillnet gear that would only minimally impact chum salmon, provided authority to allow only beach seine gear to be used for subsistence fishing, and to require that chum salmon taken with beach seine gear must be returned to the water alive. The board also provided authority to the department to close set gillnet gear separately from other gear by emergency order if necessary for the conservation of chum salmon.

Proposal No. 4: In the Yukon area, the board established a new coastal fishing district to allow flexibility in management actions if necessary to protect chum salmon during subsistence fisheries. The board also provided the department with authority to limit commercial fishing gear to large size Chinook salmon gillnet gear, to continue to provide for commercial fishing of Chinook salmon while minimizing interceptions of chum salmon. The regulations were amended to provide the department with authority to limit the size of gillnet gear for subsistence fishing to less than four inches or greater than eight inches to allow subsistence fishing while minimizing the impact on chum salmon and to require that fish wheels be equipped with live boxes and that chum salmon be returned to the water alive. The board provided authority for the department to conduct a test fishery in the Anvik River to determine the feasibility of harvesting surplus summer chum salmon without stressing Chinook stocks. The markers at the mouth of the Andreafsky River were moved to provide greater management flexibility. Additionally, the board created a time separation between commercial and subsistence fishing periods to lessen the opportunity for subsistence fish to be illegally sold, while still providing a reasonable opportunity for subsistence when there is a harvestable portion.

The Yukon River chum salmon stocks were also addressed through the Yukon River drainage Fall Chum Salmon Management Plan, which was adopted at this meeting. The purpose of this management plan is to assure adequate escapement of fall chum salmon into the tributaries of the Yukon River and to provide management guidelines to the department. The board applied the mixed stock policy (5 AAC 39.220) to the Yukon River fisheries and determined the policy has been met by the Yukon River Drainage Fall Chum Salmon Management Plan and the other management plans and regulations the board has in place in the Yukon River.

Proposal No. 5: In the Kuskokwim area, the board provided the department with authority to allow subsistence fishing for Chinook salmon with large mesh gillnet gear to minimize chum salmon interceptions, and limit the size of gillnet gear for subsistence fishing to less than four inches or greater than seven and one-half inches, and to require that fish wheels be equipped with live boxes and chum

salmon taken with a fish wheel or beach seine gear must be returned to the water alive.

Seven members participated in the vote on proposals 1-5 and the vote on each was 7-0.

Proposal no. 6: In the south Unimak/Shumagin Islands June fishery, the board amended the South Unimak/Shumagin Islands June Fishery Management Plan by deleting the fixed opening date, and eliminating the fixed sockeye quota periods. These actions give the department greater flexibility to harvest sockeye while the sockeye to chum salmon ratios are high.

Previously the management plan required the fisheries to be opened no earlier than June 13 and openings were conducted within specified periods with sockeye quotas, and closed when the sockeye quota of a certain period had been met. These amendments give the department the tools that they requested to reduce chum salmon catches in the June fishery by allowing fishing to continue when the sockeye to chum ratio is high. The Board adopted proposal six by a vote of 5-0. Two members did not participate or vote due to a determination by the Chair that they had a conflict of interest with regard to proposal six.

#### C. Findings--General:

1. The Board incorporates by reference its previous findings on the South Unimak/Shumagin Islands June fisheries, FB-1-92 and FB-06-92, and on Norton Sound chum salmon, 92-5-FB, and on Toklat fall chum salmon, 92-3-FB.

2. The Board incorporates by reference the public testimony, staff reports and Board discussion that occurred at the December 1 through 4 1993 informational meeting and at the March 1994 meeting.

#### D. Findings--AYK Management Measures:

The Board finds that stocks of chum salmon in Northern Norton Sound, the Aniak portion of the Kuskokwim drainage, and some of the Yukon River systems, particularly fall chums in the Toklat drainage, continue to fall below the catches and estimated escapements of the 1980's, and that the 1993 failure of a 4 year old spawners exacerbated existing problems in those systems.

The Board noted in amending Proposal 1, that managing for the high commercial catches in the AYK during the 1980's may or may not be a realistic goal. The Board believes that there is significant difference between managing for sustained yield and managing for high commercial catches and encourages state expenditures that will insure realistic management goals for these important systems.

From a conservation standpoint, it is difficult, if not impossible, to pin down a single regulatory solution to the chum salmon abundance problems being



experienced in some AYK systems. The extreme variability in stock conditions, unknown ocean survival, unknown effects of delayed maturity displayed by some west coast chum stocks, and imprecise harvest and escapement data for AYK chums all contribute to the difficulty of setting up effective regulatory and management regimes.

The problems occurring in some systems are even more baffling considering that other AYK chum stocks appear to be quite healthy. The Anvik River (a tributary to the Yukon River), generally considered to be the largest single chum salmon producing system in North America, continues to experience generally healthy runs and escapements. This is also the case for 75% of the chum stocks in Norton Sound, specifically those returning to the Southern Norton Sound Districts of Shaktoolik and Unalakleet. These districts continue to support healthy mixed stock chum salmon fisheries.

The Board also noted that in 1993 chum salmon abundance was far below average in all areas of Alaska north of Sitka. ADF&G staff reports during the December meeting indicated that the depressed chum returns may be linked to massive releases of chum salmon from Asian hatcheries. These releases may also be responsible for the delayed maturity of North American chums.

To further complicate the picture, the Board received informational reports from the staff and public that trawl bycatch of chum salmon during the 1993 Bering Sea pollock fishery was at an all time high. It remains unknown whether this bycatch indicates a high abundance of immature chum salmon rearing in the Bering Sea, or an elevated interception of already depressed stocks.

In taking the actions on Proposals 2-5, the Board sought ways to protect know chum salmon spawning stocks in troubled systems while providing maximum opportunities for subsistence, commercial, and sport fishing on healthy chum and other salmon populations. The Board established regulations which give the commissioner maximum flexibility to respond to inseason situations so that harvest opportunities can be maximized for all users.

#### E. Findings--South Unimak/Shumagin Islands June Fishery:

The board rejected an amendment to lower the South Unimak/Shumagin Island June Fishery Management Plan to lower the chum cap to 300,000 from 700,000 fish. (Two members found to have a conflict on interest on proposal six did not vote. Two members voted in favor of the amendment. Three voted in opposition.) The Board examined, in detail, the department's revised analysis of the 1987 tagging report which assigned stock-of-origin to the 1987 catch and extrapolated that stock identification to various chum caps for any year. The Board reviewed all information in its decision, and found the department's report to lead to the same conclusion that previous Boards came to in applying the 1987 tagging information.

In applying the department's revised analysis board members voting in opposition found that a 300,000 chum cap in the South Unimak/Shumagin Islands June fishery could be expected to provide only 4-5,000 chum salmon to Northern Norton Sound systems even assuming a zero mortality on these fish between the June fishery and Norton Sound. Only 27,000 to 43,000 chums could be delivered to the Yukon River under the department's revised analysis. These members found that these numbers of fish would be almost undetectable in areas as large as Northern Norton Sound or the Yukon River. In reaching this determination, they noted that it had arrived at exactly the same conclusion as previous Boards had using similar analyses. They also noted that the South Unimak/Shumagin Island June fishery catch of AYK bound chum salmon was relatively minor in comparison to the totality of AYK chum salmon abundance. These members also found that the conservation problems in the AYK fisheries could not be largely accounted for by the South Unimak/Shumagin Islands June fishery, nor would even a total closure of the June fishery be expected to bring about significant restoration of troubled AYK systems.

The Board applied the Mixed Stock Policy to the South Unimak/Shumagin Islands June fishery and found that the existing regulatory framework, and the new flexible additions to the regulations meets the policy. The management plan and the restrictive regulations adopted for this fishery over the past several years constitute appropriate assignment of conservation burden required by the policy even though the prevailing member of this Board and previous Boards have not found a significant cause and effect link between the South Unimak/Shumagin Islands June fishery and AYK fisheries.

Management actions in reducing fishing time and moving fleet pressure from waters where high concentrations of chums exist have kept the chum salmon harvest relatively stable over the last eight years. Chum caps established by previous Boards since 1986 have been exceeded only once; in 1991. Chum catches seem to be dependent upon the relative abundance of both chum and sockeye salmon. In other words, in years like 1993 when sockeye abundance is high and chum salmon abundance is low, the South Unimak/Shumagin Islands fishery is able to harvest its sockeye allocation without approaching the cap. Since the 1994 forecasts for Bristol Bay sockeye is at a record high, it is reasonable to expect that if sockeye abundance is high and chum abundance is low that the 700,000 chum salmon cap will not be reached unless chum abundance is also high, in which case that need to take severe measures in the June fishery are not required.


This fact, the new flexibility the department has, the fleet's commitment to work with the department to identify inseason areas that should be closed, and the voluntary "chum pool," provide protection to traveling chum salmon stocks that is consistent with the mixed stock policy and with sustained yield management.

Department calculations using a mathematical model based on past years' fishery performances indicated that a chum cap of 300,000 would mean a potential loss of 2,269,000 sockeye salmon to Area M fishers. This model projects average conditions and does not specifically account for either low or high chum abundance.

With a record sockeye run projected for Bristol Bay in 1994, this reduction of the cap could, however, according to the model, create a significant burden on Area M fishers and their families with the actual contribution of such a reduction insignificant in the conservation of AYK chum stocks.

F. Summary:

The actions taken at this meeting go far toward developing regulations to address the conservation concerns, foster sustained yield management, and rebuild Arctic-Yukon-Kuskokwim Region chum salmon stocks. Conservation concerns for several Arctic-Yukon-Kuskokwim Region chum salmon stocks that have been depressed in recent years have been identified and action taken to ensure sustained yield for these stocks. The Board also noted that the majority of this frustration in addressing the issue of resurrecting depleted AYK chum systems has less to do enacting more regulations than it has to do with acquiring more information. The Board discussed that the status of fisheries data in most of the AYK is extremely deficient, and continuing to deliberate regulatory solutions in the absence of basic biological data on AYK systems is counterproductive and a misdirection of time and resources. In addition, the Board of Fisheries and the Department of Fish and Game will work toward reducing the bycatch of western Alaskan origin chum salmon in ocean trawl fisheries.

  
Larry Engel, Chair  
Alaska Board of Fisheries

APPROVED: 10/21/94 @ 8:27pm  
Location: Fairbanks, AK

Action on AYK Portion of Findings:

(6/0/1: Yes/No/Abstain) Abstain: Virgil Umphenour

Action on South Unimak/Shumagin Islands June Fishery Portion of Findings:

(3/1/3: Yes/No/Abstain) Abstain: Virgil Umphenour;  
Trefon Angasan, Jr.; and  
Dick Jacobsen

(Previously: Finding #: 93-07-FB)  
Mixed Stock Policy Finding

ALASKA BOARD OF FISHERIES  
FINDINGS ON POLICY FOR MIXED STOCK SALMON FISHERIES

The Board of Fisheries, at a meeting from March 16 through 20, 1993, adopted 5 AAC 39.220, POLICY FOR THE MANAGEMENT OF MIXED STOCK SALMON FISHERIES.

The Alaska Board of Fisheries originally adopted an informal policy for mixed stock salmon fisheries in 1976 and revised it in 1980. It was applied only occasionally by the Board or by litigants challenging Board actions. In 1990, the Alaska Supreme Court held that the policy could not be used in Board decisions because it had not been adopted as a regulation under the Administrative Procedure Act (AS 44.62). The court, however, held that several Board allocation decisions on mixed stock fisheries were valid under other authorities. In 1992, the Alaska Legislature enacted AS 16.05.251(h) requiring the Board to adopt by regulation a policy for the management of mixed stock salmon fisheries consistent with sustained yield of wild fish stocks.

At the March 1993 meeting the Board considered information contained in Alaska Department of Fish and Game oral and written staff reports, oral public testimony from 91 individuals and 11 advisory committees, as well as a multitude of written public comments submitted prior to and during deliberations. Additionally, during deliberations, the Board established a committee made up of various interests in order to focus discussion on key issues.

The Alaska Board of Fisheries finds that:

Alaska's salmon industry and communities dependent upon that industry have developed and rely upon stable fisheries, many of which harvest a variety of mixed stocks. This development represents the successful application of principles of management to achieve sustained yield which have produced increasing harvestable surpluses of salmon statewide. Creation of the Limited Entry System stabilized participation in the fisheries and managers developed successful rebuilding programs which suited the unique characteristics of the fish stocks, geography and gear types of the regions.

For example, in the Bristol Bay region harvest effort was confined to the terminal areas of the five major sockeye producing systems. Escapement goals which suited the carrying capacity of the lake systems were established and managed for. Consistent harvests of tens of millions of sockeye have been achieved.

Conversely, in Southeast Alaska where pink salmon runs were depressed, a different management style arose. Rather than a few huge systems, a myriad of medium to tiny streams produce the Southeast stocks. Commercial fisheries effort occurs away from the terminal areas and through the application of time, area and gear

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Mixed Stock Policy Finding

restrictions, a style of management developed on these mixed stocks which permitted harvest of a high quality product, distributed harvest pressure over larger areas, distributed harvest temporally throughout the run, and diluted impacts on weaker stocks.

As another example, the fisheries of the Yukon River encompass the entire spectrum of fisheries management from the mixed stock fishing of the lower main stem to the terminal fisheries near the contributing systems.

The Board finds that most of Alaska's fisheries harvest stocks which are mixed.

Mixed stock salmon fisheries are often the focus of intense political controversy. Fishermen need to know what standards will be used by the Board in making decisions affecting those fisheries. Equally important, fishermen need to be assured that those standards will be applied uniformly to all mixed stock salmon fisheries, not just those that engender controversy and notoriety.

In this policy, stocks are considered to be species, subspecies, geographic groupings or other categories of fish manageable as a unit. Many stocks of Alaska salmon are not manageable throughout their range. Salmon management is an art, not an exact science. Decisions should be based upon the best information available but with no expectation that such information will be always accurate or precise.

The Board framed, by unanimous consensus, the principles upon which its policy would be developed. These tenets included reasserting the statutory preference for wild stock conservation as well as the subsistence preference. Consensus principles were:

(1) The policy should provide that all users of salmon resources should share in actions taken to conserve the resource in a manner which is, ideally, fair and proportional to respective harvest of the stock in question.

(2) The policy should state that the Board prefers to develop management plans as the mechanism to express how the burden of conservation is to be distributed among users and that these management plans also state allocation objectives as determined by application of the allocation criteria. Most mixed stock fisheries are long standing and have been scrutinized many times by past Boards. Consequently, existing regulatory management plans are understood to incorporate conservation burden and allocation, although such burdens can be readjusted.

(3) The policy should recognize that salmon resources are generally fully utilized and that stability is an important aspect of the fisheries.

(4) New or expanding fisheries on mixed stocks may potentially change management schemes for conservation or may change existing allocations. Therefore new or expanding mixed

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Mixed Stock Policy Finding

stock fisheries will be discouraged unless a management plan or application of the Board's allocation criteria warrant otherwise.

(5) The policy should not be a tool to be used for allocating outside of the Board's allocation criteria.

(6) The policy should not pass the burden of allocating mixed fish stocks to the department in-season, but rather allocation decisions should be made only by Board regulation; consequently, mixed stock issues requiring redress between Board meetings should be undertaken only pursuant to existing procedure (Petition Policy, Agenda Change Policy and Subsistence Petition or Proposal Policy).

(7) The policy should reflect that new or expanding fisheries will not be gauged against single year anomalies in distribution or effort, or against natural fluctuations in the abundance of fish.

(8) This is a salmon policy and applies to all users.

Section by Section Findings:

The Board determined in section (a) of the policy that mixed stock salmon fisheries management should be fully consistent with the statutory preference for wild stock conservation, and accorded it the highest priority consistent with sustained yield. Achievement of sustained yield cannot be tied to annual attainment of each and every escapement goal each and every year. Such a standard is too limiting and not practical. The Board recognized that sustained yield was not a precisely measurable standard to be applied in a strict sense, but rather connoted a system of management intended to sustain the yield of the particular salmon resource being managed. The Board's management system, therefore, seeks the goal of sustained yield over time. The Board also determined that nothing in this policy development was intended to diminish in any way the subsistence preference.

In subsection (b) the Board addresses the burden of conservation. Burden is a subjective term but the Board wishes to state that under ideal circumstances, management actions to achieve conservation objectives will be shared fairly among users. This sharing depends on information, and the Board recognizes stock specific information will not always be available. It is expected that, over time, more and more stock specific data will evolve from scale analysis, tagging, and genetic research.

Intrinsic within the management of mixed stocks is the question of how conservation and allocation of the weaker stocks which may be present shall be achieved. In each regulatory decision, the Board must weigh how harvests of healthy stocks will be managed in order to protect the less robust components of fisheries. Where stock information is not precise or unavailable, the sharing of the conservation burden may be unavoidably disproportional.

Consistent with AS 16.05.251(e), the Board has adopted criteria for the allocation of fishery resources among competing users, and the Board uses these criteria when adopting management

Finding #: 93-07-FB  
Mixed Stock Policy Finding

plans. In subsection (c), the Board determined that such regulatory management plans are the preferred mechanism to address complex fishery issues. Regulatory management plans are presumed to assign proportional burdens of conservation and to allocate harvest opportunity.


It is the intent of subsection (d) of this policy to restrict new or expanding fisheries that rely heavily upon harvests of mixed stocks of fish, particularly if those stocks are fully utilized and allocated elsewhere, unless otherwise warranted by application of the Board's allocation criteria.

Definition of new or expanding fisheries will not be based on natural fluctuations in abundances of fish. Rather, expansion of fisheries must be gauged against the behavior of fishermen, such as increases in effort, movement to new areas, or targeting on different species. It is seldom practical to declare a fishery as "new" or "expanding" based on a single year's events.

This policy is intended to guide future action by the Board of Fisheries in establishing regulatory restrictions on fisheries; this policy is not to be used directly by the department to make in-season adjustments not otherwise specified or called for in regulatory management plans. Nothing in this policy affects the Department's emergency order authority to make in-season adjustments for conservation purposes. Action by the Board to implement this policy will occur under its normal schedule of deliberations, except for those issues that warrant consideration under the various regulatory petition and agenda change policies.

The intent of subsection (e) of this policy is to embody the current practices of salmon management employed by the Board and the department. It is not the intent of this policy to create a terminal fisheries preference, nor a mixed stock preference. It is not the intent of this policy to require readjustment of existing regulatory management plans, either for conservation or for allocative purposes. Future shifts in allocation, even under this policy, must comply with the Board's allocation criteria.

Approved: October 26, 1993  
Location: Alyeska Resort; Girdwood, AK  
Vote: 7/0 (Yes/No)

  
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Tom Elias, Chair  
Alaska Board of Fisheries

## ALASKA BOARD OF FISHERIES

## ALLOCATION CRITERIA

The Alaska Supreme Court recently issued a decision, Peninsula Marketing Association vs. State (Opinion No. 3754; dated September 20, 1991), regarding the application of the allocation criteria found in AS 16.05.251(e). The Court interpreted the statute to require the criteria to be considered when allocating between commercial fisheries as well as among the three user groups, commercial, personal use, and sport.

Consistent with the decision of the Court, the board finds that it will utilize the following specific allocation criteria when allocating between fisheries. Note that these criteria are essentially the same as the allocative criteria specified in AS 16.05.251(e), which the board has historically used as set out in 5AAC 39.205, 5AAC 77.007, and 5AAC 75.017.

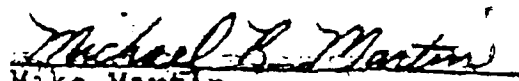
- 1) the history of each personal use, sport, and commercial fishery;
- 2) the characteristics and number of participants in the fisheries;
- 3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;
- 4) the availability of alternative fisheries resources;
- 5) the importance of each fishery to the economy of the state;
- 6) the importance of each fishery to the economy of the region and local area in which the fishery is located;
- 7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

Note that all seven (7) criteria do not necessarily apply in all allocation situations, and any particular criterion will be applied only where the board determines it is applicable.

Adopted: November 23, 1991

Vote: (Yes/No/Abstain/Absent) ( 5 / 0 / 0 / 2 ) [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn

  
Mike Martin  
Chair  
Alaska Board of Fisheries



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Adopted: November 23, 1991

Vote: (Yes/No/Abstain/Absent) (5/0/0/2) [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn



Mike Martin, Chairman  
Alaska Board of Fisheries

## ALASKA BOARD OF FISHERIES STANDING RULES

As a guide, the Alaska Board of Fisheries follows the most current version of Robert's Rules of Order in the conduct of the meetings [Note that the Alaska Statutes do not require the board to use any specific parliamentary procedure]. The board has by traditional agreement varied from the written Robert's Rules of Order. Below is a partial list of these variations (known as "Standing Rules") that the board follows:

- Take No Action. Has the effect of killing a proposal or issue upon adjournment. There are two reasons for taking no action: 1) It is found that the proposal is beyond the board's authority; or 2) due to board action on a previous proposal(s).
- Tabling has the effect of postponing indefinitely (Robert's Rules of Order). One of the primary reasons the board tables a proposal/issue is to gather more information during that meeting since a tabled proposal/issue dies when that meeting session adjourns.
- One amendment at a time. As a practice, the board discourages an amendment to an amendment. This is a proper motion by Robert's Rules of Order, however the board tries to avoid the practice because of the complexities of issues.
- Do not change or reverse the intent of a proposal/issue. For example, if a proposal's intent is to restrict a particular fishery and the board wishes to close or expand the fishery, the board will not amend the original proposal. The board will defeat, table or take no action on that proposal and then develop a board generated proposal to accomplish the action they feel is needed.
- "Ruling of the Chair" or "Chair's Ruling". When the chair makes a ruling, the board members have two options; 1) accept the ruling and move on; or 2) appeal/challenge the chair's ruling. By Robert's Rules of Order, the process is as follows (When a chair's decision is appealed/challenged):

By Robert's Rules of Order, the process is as follows (when a chair's decision is appeal/challenged):

- 1) The chair makes a ruling;
- 2) A member appeals (challenges) the chair's ruling (i.e. "I appeal the decision of the chair") and it is seconded (Note: All board members present can or could appeal/challenge the ruling);
- 3) Any board member can debate the ruling and appeal/challenge (Note: By Robert's Rules the chair and the person appealing/challenging the ruling are the only two who are to debate the issue);
- 4) The question before the board is: "Shall the decision of the chair be sustained?"
- 5) After the result of the vote is announced, business resumes.

- The public depends on or expects the board members to keep an open mind on the issues before the board. To accomplish this the board will listen to and ask questions: 1) staff reports, advisory committee and regional council reports, and 2) during deliberations on the issues, listen to fellow board members points and issues. It is not conducive to soliciting public involvement if the board members express that they already have an opinion and it is up to the public or staff to "change their mind."
- Note another "Standing Rule" contained in Board of Fisheries Finding Number: 80-78-FB. This finding is regarding the Reconsideration Policy of the board.

Adopted: November 23, 1991

Vote: (Yes/No/Absent/Abstain) 5/0/2/0/ [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn

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Mike Martin, Chairman  
Alaska Board of Fisheries

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ALASKA BOARD OF FISHERIES

Operating Procedures

Motion to Reconsider

1. Any member of the Board of Fisheries who voted on the original issue may move to reconsider a vote, regardless of how the member voted on the original issue.
2. A motion to reconsider may be made at any time prior to final adjournment of the Board meeting. A motion to reconsider need not be made on the day the original vote is taken.
3. A motion to reconsider must be supported by a presentation of new evidence that was not before the Board at the time the original vote was taken.
4. A Board member who intends to move for reconsideration should inform the Chairman of his intent.
5. When intent to reconsider is made known, public notice will be given as to when reconsideration will occur.

ADOPTED: April 3, 1980  
VOTE: 6/0 (Goll absent)  
Anchorage, Alaska