

**Emergency petition requesting the Alaska Board of Fisheries to Adopt an
Emergency Regulation reducing commercial fishing time in the South Unimak and
Shumagin Islands June Salmon Fishery.**

March 9, 2016

RC 063

Petitioners: Fairbanks Fish & Game Advisory Committee

Introduction

The Fairbanks Fish & Game Advisory Committee (Committee) files this emergency petition (Petition) to the Alaska Board of Fisheries (Board) pursuant to Alaska Statute 44.62.220 and the Joint Board Petition Policy 5 AAC 96.625(f), requesting immediate regulatory action be taken by the Board to contain the rapid expansion of Chinook salmon harvest in the South Unimak and Shumagin Islands June Fishery. This emergency rule making is necessary to ensure that, consistent with Board policy for the management of sustainable salmon fisheries, 5 AAC 39.222 and Board policy for the management of mixed stock salmon fisheries, 5 AAC 39.220, a comprehensive precautionary approach is implemented to conserve Chinook salmon bound for the rivers of the Arctic/Yukon/Kuskokwim (AYK) area.

Legal Framework

Alaska Statute 44.62.220 grants any interested person the right to petition a rule making body for the adoption or repeal of a regulation. The Board has clarified the reliance on the call for proposals and regular meetings in the Joint Board Petition Policy at 5 AAC 96.625. Under the petition policy, the Board will only consider a petition outside the published call for proposals if “the problem outlined in the petition justifies a finding of emergency.” Consistent with Alaska Statute 44.62.270, emergencies will be held to a

minimum and rarely found to exist. Under the Petition Policy, an emergency is defined as “an unforeseen, unexpected event that ... threatens a fish or game resource.”

Justification

A combination of at least five factors combine to demonstrate the existence of an emergency as defined in 5 AAC 96.625 in the present matter of rapidly escalating harvest of Chinook salmon in the mixed stock South Unimak and Shumagin Islands June Salmon Fishery. These are:

1. The long-term average harvest of Chinook salmon in the South Unimak and Shumagin Islands June Salmon Fishery is approximately 6000 fish. Prior to 2015, the single largest year harvest of Chinook salmon in the fishery was 14,747 fish. In 2015, 44,389 Chinook salmon were harvested in the fishery. This dramatic sevenfold increase in harvest was unforeseen and unexpected. Further, as discussed below, this harvest poses a direct threat to the already depleted Chinook salmon stocks of the AYK area.
2. The Kuskokwim River has experienced historically low Chinook runs in recent years. Because of these low runs and not meeting escapement goals at two of three weir sites in 2014, subsistence fishing closures and other conservation measures were imposed in 2015. The Refuge Manager of the Yukon Delta National Wildlife Refuge, through authority delegated by the Federal Subsistence Board, closed the Chinook salmon fishery to all non-federally qualified users in federal waters within and adjacent to the boundary of the Refuge from May 21 – July 20, 2015. The Refuge Manager also closed

the Chinook salmon fishery on the Lower Kuskokwim to all user groups in May 2105 through federal special action.

3. The Yukon River has also experienced historically low Chinook runs in recent years. Yukon River Chinook are designated a Stock of Yield Concern. In 2015, consistent with the preseason forecast of a below average return of Chinook salmon in the Yukon River, subsistence closures and other conservation measures were broadly imposed early in the run. Subsistence salmon fishing was closed in the Northern portion of the Coastal District and Districts 1 and 2 on May 30. Similarly, upriver districts were closed to subsistence salmon fishing in chronological order as Chinook salmon passed through those districts. These closures remained in place for nearly the entire duration of the Chinook salmon run. When assessment information indicated that summer Chum salmon were entering the Yukon, the subsistence fishery was opened with restricted gear. Only dip nets and live release fish wheels were allowed with immediate live release of all Chinook salmon.

Additionally, Alaska has failed to ensure that adequate numbers of Yukon River Chinook salmon pass the border with Canada, as needed to fulfill the obligations under the United States – Canada Salmon Treaty.

4. The Norton Sound area has also experienced historically low Chinook runs in recent years. Norton Sound Chinook salmon are designated a Stock of Yield Concern. In the major Chinook salmon producing river of Norton Sound, the

Unalakleet River, escapement goals have only been met half of the last sixteen years.

5. These troubled Chinook salmon stocks of the AYK region compose at least some part of the harvest in the South Unimak and Shumagin Islands June Salmon Fishery. AYK originating stocks of Chinook salmon are generally known to pass through and feed in the marine water south of the Alaska Peninsula. Kocan's 2004 Yukon River Chinook salmon *Ichthyophonus* study done for the U.S. Fish & Wildlife Service found correlation between the presence of *Ichthyophonus* infected herring south of the Aleutian Islands and *Ichthyophonus* infected Yukon River Chinook salmon. While no genetic study has been done on Chinook in this fishery to determine where the fish originate, genetic studies of other salmon species in this fishery show the origins of the fish harvested. Further, any layperson can understand that a freshwater spawning species caught in a saltwater intercept fishery must be destined to spawn somewhere else.

The low return of Chinook salmon in the AYK area implicate the Board's constitutional mandate for sustained yield under Article VIII, section 4 and its statutory mandate to provide a subsistence priority under Alaska Statute 16.05.258. The exponential harvest increase of Chinook salmon in South Unimak and Shumagin Islands June Salmon Fishery must be addressed prior to the 2016 season. Due to the uncertainty over the composition of this stock, until such time as the Department increases its stock assessment information

sound science calls for the application of the precautionary principle rather the current aggressive harvest strategies.

Emergency Regulation Requested

Amend 5 AAC 09.365, South Unimak and Shumagin Islands June Salmon Management Plan, to reduce fishing time as needed to reduce commercial Chinook salmon harvest to its historical levels.

Impacts to Fish Stocks and the Users

As it remains unknown the exact origin of the Chinook harvested in this mixed stock commercial intercept fishery, it is difficult to quantify the exact benefit to each river system. The data strongly suggests that at least a portion of the Chinook harvested in this fishery are bound for AYK waters where Chinook are stocks of concern. Any action taken to ensure the sustainability of those stocks will be consistent with the Board's constitutional and statutory mandates for sustained yield.

Subsistence fishing has been restricted in many of the AYK Chinook fisheries in recent years. This commercial limitation would benefit subsistence users and comply with the Board's statutory duty under Alaska Statute 16.05.258.

Participants in this commercial fishery would be impacted. However, in making allocation decisions, the Board is to consider the criteria of Alaska Statute 16.05.251(e). Under those criteria the Board should consider, among other information, the multiple alternative fisheries available in the Unimak and Shumagin Islands area and lack of similar alternatives for AYK area users.

Conclusion

The Committee respectfully requests the Board approve the requested emergency petition.



Virgil Umphenour

Chair, Fairbanks Fish & Game Advisory Committee

10 March 2016

Date