

March 13, 2023

Alaska Board of Fisheries

P.O. Box 115526

Juneau, Alaska 99811-5524

Attn: Executive Director / Art Nelson

Chairperson / Carlson-Van Dort / Members of the Board of Fisheries

Subject: Upper Cook Inlet Commercial Fishing Announcement No. 1 / Emergency Order Number 2S-1-23

Please review the justifications for conditions establishing the granting of an Emergency Petitions for the Cook Inlet East Side Set Net fishery (ESSN).

RC003, RC004 and RC033 all contain Emergency Petitions and suggest possible solutions that would modify current regulatory management plans that could afford relief in lieu of a pre-season closure to the entire ESSN fishery based on a pre-season assessment.

I would suggest that the Board of Fisheries (BOF) qualify all three as meeting the threshold so as not to exclude any possible modifications to that may be deliberated at a future scheduled meeting of the board specifically to address possible actions.

Once the BOF has scheduled a meeting the public could submit comments or oral testimony so that Board members will have information before them that may be used to deliberate with.

Justifications for accepting an Emergency Petition for the ESSN fishery;

5 AAC 96.625 Joint board petition policy. *(e) ...the importance of public participation in developing management regulations, and recognize that public reliance on the predictability of the normal board process is a critical element in regulatory changes.*

#1 Covid 19 disrupted the normal cycle of the Upper Cook Inlet (UCI) meeting cycle. The last meeting was held in the spring of 2020. Therefore, the meeting

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SHOULD have been scheduled for this spring of 2023. The petitioners have waited to address this management plan in an orderly manner but this expectation was denied due to the pandemic.

#2 5 AAC 21.359 Kenai River Late-Run King Salmon Management Plan was modified in the 2020 UCI regulatory meeting to manage for an OEG of 15,000 spawning goal over a biological goal (SEG) of 13,500. The intent was to allow more Late-Run kings into the river for in river users to harvest. Since the regulation was adopted this large king goal has never been met.

It would be incredible to think that the BOF members on the 2020 Board would enact a regulation that was not achievable. They could not have possibly known the outcome of their actions.

The Department has taken the position in past responses to the request to previous petitions submitted to the State that the Board understood by adopting the OEG that there would be potential for a pre-season closure four months ahead of the scheduled season based on the establishment of an OEG.

On the contrary, within deliberations the Board members considered that seasons would begin as prescribed in regulation with the Department making in season projections based on historical run timing of king as they passed the ARIS counters at mile 13.7. In season determinations are the hallmark of Alaskan fisheries management and it would be incredulous to believe that prior BOF actions would not have understood this.

Normal “*action points*” based on historical run timing would be: 25% - 18th of July, 50% - 28th of July. Historical practice was for the Department to take necessary precautions after the quarter point and near the half point.

It should be noted that the current management plans allow several in season actions as precautionary measures to adjust for predicted “risks” such as reducing time, area and the amount and type of gear. Many previous Boards have placed into regulation these “tools” in the tool bag. If the previous Boards were expecting the Department to implement pre-season closures it would be incredulous to believe they would spend so much time on placing these measures into regulatory language over the course of decades.

Clearly, this is an Unforeseen result of implementing the OEG within the 2020 UCI regulatory meeting.

#3 Implementing a full closure prior to the season has the obvious effect of, “...an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.”

Previous Board actions were based on understanding that restrictions applied to the ESSN fishery may result in exceeding the top end of the sockeye goals in the Kenai and Kasilof Rivers. However, no discussion or deliberations would have anticipated such magnitudes of exceeding the escapement goals and threatening future yields of returns of sockeye to these two systems.

5 AAC 39.222 Policy for the management of sustainable salmon fisheries (b)
...and the sustained economic health of Alaska’s fishing communities.

While this is a very limited quote from this very extensive plan it does allow guidance to assist in defining the qualification for accepting an *emergency petition*.

I want to thank the members of the Alaska Board of Fisheries in consideration of the difficult task. If there is any other information or assistance that they may need and I can assist the BOF with I am more than willing to do so.

Thank you,

Paul A. Shadura II