

Bare Threads

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Petition to the Alaska Board of Fisheries

We are petitioning the Alaska Board of Fisheries to remove the following "optimal escapement" goal and "optimum sustained yield" from 5 AAC 39.222. Policy for the management of sustainable salmon fisheries because both are unconstitutional under Article 8 Chapter 4 which requires for fish to be "maintained on the sustained yield principle" not simply be sustainable. The following definitions are copied directly from 5 AAC 39.222.

"(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a nonconsumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

Under the definition of and optimal escapement goal under 5 AAC 39.222 "an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET". This is a much lower standard than is required under the State of Alaska Constitution and is totally arbitrary without defined limits, at the lower end of the range the department has no ability to define or establish an (SET) and at the upper end of the ranges sustained is totally undefined. The pertinent portions of the Constitution are copied below. This is an emergency because no regulatory Board can establish regulations which may jeopardize sustained yield or regulations contrary to the state Constiution!

Article 8 - Natural Resources

§ 1. Statement of Policy

It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

§ 2. General Authority

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The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

§ 3. Common Use

Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

§ 4. Sustained Yield

Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

§ 5. Facilities and Improvements

The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

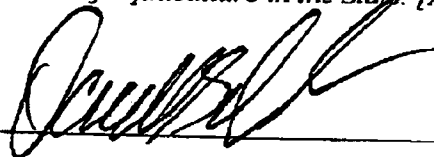
§ 14. Access to Navigable Waters

Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or

§ 15. No Exclusive Right of Fishery

No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State. [Amended 1972]

Submitted by:



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