



THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

**Department of  
Fish and Game**

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TO: Karl Johnstone, Chair  
Alaska Board of Fisheries

DATE: May 1, 2014

THRU: Jeff Regnart, Director  
Division of Commercial Fisheries

SUBJECT: Petition to Limit  
Subsistence Gillnets  
of 4-inch Mesh Size  
to Setnet Only for  
King Salmon  
Conservation in  
Kuskokwim River

FROM: John Linderman, Region III Regional Supervisor  
Division of Commercial Fisheries

This letter provides Alaska Department of Fish and Game (department) staff assessment of a petition received from the Kuskokwim River Salmon Management Working Group on April 14, 2014 to the Alaska Board of Fisheries (board) to consider an emergency action out of cycle.

### **Action Requested**

This petition seeks to prevent subsistence fishermen from targeting king salmon during subsistence salmon fishing closures by requiring four inch mesh gillnets to be operated only as setnets in the Kuskokwim River during times of king salmon conservation.

### **Background**

Since 2010, the Kuskokwim River has experienced poor king salmon returns and average to above average sockeye and chum salmon returns. Total run estimates for Kuskokwim River king salmon in 2010, 2012, and 2013 are the three lowest on record. Escapements in 2010 and 2013 were below the Kuskokwim River drainagewide escapement goal that was established in 2013 and the majority of tributary escapement goals were not met in these years.

The 2014 Kuskokwim River king salmon run is expected to be similar to 2013, which was the lowest on record. The management expectation is to close the subsistence and sport king salmon fisheries and reduce incidental harvest of king salmon to a level that would allow for achievement of escapement goals.

Long-standing regulations in the Kuskokwim Management Area allow for salmon to be taken for subsistence purposes by gillnet, beach seine, a hook and line attached to a rod or pole, handline, or fish wheel. Gillnets are the primary gear type used in the Kuskokwim River subsistence

salmon fishery. The aggregate length of set gillnets or drift gillnets may not exceed 50 fathoms in length. During times of king salmon conservation, subsistence gillnet mesh size may not exceed six inches.

In January 2013, the board adopted a new Kuskokwim River Salmon Management Plan (management plan) that includes additional king salmon conservation measures allowing the department to restrict subsistence gillnet mesh size to four inches or less until sockeye and chum salmon abundance exceeds king salmon abundance, effectively closing the subsistence salmon fishery until sockeye and chum salmon are present in adequate abundance. Another provision in the management plan allows the department to establish fishing periods during which subsistence king salmon may be harvested only by persons 60 years of age or older when the surplus of king salmon available for harvest is limited.

During subsistence salmon closures, fishermen may target whitefish and other non-salmon species with a four inch or less mesh size gillnet, used as either a set or drift gillnet, that may not exceed 60 feet in length. In 2012, the department closed the subsistence salmon fishery for 14 days and there were anecdotal reports of subsistence fishermen drifting four inch mesh gillnets through known king salmon fishing areas, intentionally targeting king salmon during these closures. Although targeting salmon is deemed illegal if the subsistence salmon fishery is closed by emergency order, it is difficult to enforce.

On April 17, 2014, the Federal Subsistence Board deliberated on a special action request that proposed closing the Kuskokwim River to non-federally qualified users and conducting an analysis under Section 804 of the Alaska National Interest Lands Conservation Act. The Federal Subsistence Board voted unanimously to take special action on the Kuskokwim River within Yukon Delta National Wildlife Refuge boundaries for the conservation of king salmon, and delegated all management and allocation authority to the federal inseason manager.

### **Finding of Emergency**

Under the criteria listed in the *Joint Board Petition Policy* used by the board in determining whether or not an emergency exists, paragraph (f) of 5 AAC 96.625 reads, in pertinent part:

...In this section, an emergency is an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.

Although the petition may meet the emergency criteria based on its utility and application towards managing for king salmon conservation, a finding of emergency is not necessary at this time. As of April 17, 2014, the Federal Subsistence Board has taken an emergency special action on the Kuskokwim River within Yukon Delta National Wildlife Refuge boundaries and closed subsistence salmon fishing to non-federally qualified users. Due to this special action, state regulations have been preempted by federal law in the primary fishing area where the gear specification requested by this petition would be most beneficial to king salmon conservation.

On average 88% of Kuskokwim River king salmon subsistence harvest occurs within refuge boundaries where federal regulations apply. Since state subsistence fishing regulations have been effectively preempted by federal regulatory action in the primary fishing area where this gear specification would be applicable, any action taken by the board on this petition would have little effect on king salmon conservation this season. The next Arctic–Yukon–Kuskokwim board meeting is scheduled for 2015/2016, which is two fishing seasons from now.

cc: Cora Campbell, Commissioner  
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Forrest R. Bowers, Deputy Director, Division of Commercial Fisheries  
Lisa Olson, Deputy Director, Division of Subsistence  
Tom Brookover, Deputy Director, Division of Sport Fish