ALASKA DEPARTMENT OF FISH AND GAME

EMERGENCY TELECONFERENCE, JUNEAU, ALASKA
Re: CHIGNIK PURSE SEINE COOP

May 4, 2005

The following staff comments were prepared by the Alaska Department of Fish and Game for use at the Alaska Board of Fisheries (board) meeting, December 2–12, 2012 in Naknek, Alaska. The comments are forwarded to assist the public and board. The comments contained herein should be considered preliminary and subject to change, as new information becomes available. Final department positions will be formulated after review of written and oral public testimony presented to the board.

ALASKA DEPARTMENT OF FISH AND GAME

DIVISION OF COMMERCIAL FISHERIES

MEMORANDUM

TO:	Art Nelson Chairman Alaska Board of Fisheries	DATE:	April 28, 2005
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THRU:	Doug Mecum Director Division of Commercial Fisheries Headquarters – Juneau		
FROM:	Denby S. Lloyd Regional Supervisor Division of Commercial Fisheries Region IV – Kodiak	SUBJECT:	Petition to Amend the Chignik Cooperative Sockeye Fishery Management Plan

This memorandum provides background information and staff's assessment regarding a petition submitted by Axel Kopun, on behalf of the Chignik Seafood Producers' Alliance (CSPA), dated April 25. The petition requests the Alaska Board of Fisheries (BOF) to issue emergency regulations to amend the Chignik Area Cooperative Purse Seine Salmon Fishery Management Plan (5 AAC 15.359). The purpose of such amendment is to address a number of issues identified by the Alaska Supreme Court in its recent decision to invalidate the Chignik cooperative fishery management plan.

Specifics

The Alaska Board of Fisheries originally promulgated 5 AAC 15.359 in January 2002. The Chignik salmon fishery has since been managed under provisions of the cooperative fishery management plan for three seasons. Annual membership in CSPA has ranged from 77 to 87, out of the 100 or so, permit holders; for the coming 2005 season, 86 permit holders had signed up by the March 15 deadline.

The cooperative fishery has been controversial and the department has taken a neutral stance with regard to allocative effects of the cooperative fishery management plan. A number of social and economic benefits, and costs, have been outlined and publicly debated over the entire life of the cooperative fishery. With regard to management or conservation issues, however, the cooperative fishery management plan has enabled the department to more accurately and precisely achieve

escapement goals of sockeye salmon in the Chignik River. This has resulted not only in better management of the escapement but also more complete harvest of available surpluses of sockeye salmon.

On the other hand, the department has consistently maintained that the cooperative fishery management plan is not necessary for the reasonable and successful management of the Chignik salmon fishery or for the conservation of Chignik sockeye salmon stocks.

In order to approve this petition, the Board must make a finding of emergency. Under provisions of the Joint Board Petition Policy (5 AAC 96.625), especially paragraph (f), an emergency is defined as:

> …an unforeseen, unexpected event that either (sic) 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…

Thus, an emergency can be the function of one or both of two possible types of unforeseen circumstance. In the first, the unforeseen event must "threaten" a fish or game resource. In the second, the unforeseen event must be a "resource situation", and an allowable harvest must be precluded if the resource situation is not addressed.

The unforeseen event noted in the CSPA petition is the decision of the Alaska Supreme Court, dated March 17, 2005, to invalidate the cooperative fishery management plan. In the department's judgment, this event does not "threaten" the Chignik sockeye salmon resource. The Chignik salmon fishery has been successfully managed for sustained yield for decades without the cooperative fishery management plan and could be managed successfully for sustained yields in the future without the cooperative plan in place.

There is no indication that the Chignik salmon resource is in an unusual condition. But, this event has created an unexpected situation with respect to the resource utilization pattern for this season. Furthermore, the timing of the court's decision has presented difficult challenges for those who counted on the cooperative fishery being in place this year. Undoubtedly, a significant number of permit holders will be unable to start up their fishing operations this season. The degree to which this and other impacts of the court's decision will affect the management of the fishery is difficult to predict. However, as noted above, without the cooperative fishery in place we would expect a biologically allowable harvest to be precluded.

Summary

The Alaska Supreme Court invalidated the Chignik cooperative salmon fishery management plan (5 AAC 15.359) in a decision issued on March 17, 2005. This was two days after the deadline for prospective members of the cooperative fishery to join. It was also very close to the beginning of the fishing season, which is scheduled to begin somewhere between June 4 and June 10 this year. CSPA petitioned the court for rehearing of the case and for a stay of the order; neither was granted.

CSPA has subsequently submitted an emergency petition to the BOF for amendment of the Chignik cooperative salmon fishery management plan, in order to provide for a cooperative fishery allocation and to address major points of concern raised by the court. Although there is no threat to the Chignik salmon resource, nor any unexpected change in the resource itself, the timing of the Court decision has created an unexpected situation with respect to the anticipated resource utilization pattern in the Chignik fishery for the 2005 season. And, a biologically allowable harvest would likely be precluded by delayed regulatory action.

cc: McKie Campbell
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