

**ALASKA DEPARTMENT OF FISH AND GAME**

**Staff Comments on Agenda Change Requests**

**Board of Fisheries Work Session**

**Anchorage, Alaska**

**October 12 – October 13, 2006**



These staff comments were prepared by the Alaska Department of Fish and Game for use at the Alaska Board of Fisheries work session, scheduled for October 12 – 13, 2006, in Anchorage, Alaska. The comments are designed to assist the public and board. The stated staff comments should be considered preliminary and subject to change, if or when new information becomes available.

**Editor's note:** The 2006-2007 staff comments on agenda change requests (ACRs) are found directly following the individual ACR (included for informational purposes).

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**ACR #17**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

During the January, 2006 Southeast Alaska Board of Fisheries meeting, the Board received two proposals requesting that the Board allow sport-caught pink and chum salmon as allowable bait for sport fishing and personal use shellfish pots. The Board was inclined to approve these proposals but received advice from Department of Law staff that the Commissioner has not authorized such uses as he has for commercial, personal use, and subsistence-caught salmon in 5 AAC 93.350(a).

After the January board meeting Chairman Nelson submitted a letter to Commissioner Campbell requesting that he amend 5 AAC 93.350(a) to allow the Board to consider allowing the use of sport-caught salmon as allowable bait in sport, personal use, and subsistence fisheries. The Commissioner agreed to this request and amended the regulation.

Now the Board has the authority to consider proposals that would allow sport-caught salmon as bait. The department is submitting this Agenda Change Request (ACR) to allow the use of sport-caught pink and chum salmon as legal bait in sport, personal use, and subsistence fisheries in the Southeast Alaska regulatory area.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA: If any on or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not Applicable.

**or 2) Correct an error in regulation:** Not Applicable.

**or 3) Correct an unforeseen effect of a regulation:** Not Applicable. There was no existing regulation that caused a problem. This ACR would allow the Board to consider a proposal that would address the problem of not allowing the use of certain sport-caught salmon as bait in Southeast Alaska.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINATELY ALLOCATIVE:** Adoption of a proposal to allow sport-caught salmon as bait would not change sport fishing bag or possession limits for these species already established by the Board. It would allow an additional legal use for the salmon harvested. Allowing sport caught pink and chum salmon as bait may increase the sport harvest by some unknown degree, but there are no known conservation concerns for these species in Southeast Alaska.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE:** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD:**

5 AAC 93.350(a) General authorizations for use of salmon, and

5 AAC 47.030. Methods, means, and general provisions – Finfish.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE:**

The next Southeast Alaska finfish board meeting is not scheduled until the 2008/2009 board cycle. The Board requested that the Commission amend the regulations and the Department submit an ACR so the Board could consider a proposal to allow sport anglers in Southeast Alaska to use salmon as bait now, rather than wait an additional three years to consider it during the regular cycle.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.):** This ACR was submitted by the Department of Fish and Game. The department manages the sport fishery for pink and chum salmon in Southeast Alaska.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.**

The Board did receive regulatory proposals on this issue during its Southeast and Yakutat finfish meeting in January, 2006, but could not consider them for the reasons stated above.

The Board has not considered an ACR on this issue before.

**Submitted By:** Alaska Department of Fish and Game

**AGENDA CHANGE REQUEST NUMBER: 17.**

**PRESENT SITUATION:** Currently the use of sport-caught salmon for bait is prohibited (5 AAC 93.350(a)). The Board was inclined to approve the use of sport-caught pink and chum salmon as bait in Southeast Alaska during its January, 2006 meeting but was advised by Department of Law staff that they could not approve this proposal until the Commissioner authorized such uses in the regulation cited above.

The Board submitted a letter to the Commissioner requesting that he amend the regulation to allow them to consider sport-caught salmon as bait. The Commissioner agreed to this request and amended the regulation in June, 2006. The department then submitted this ACR, as requested by the Board, instead of waiting an additional three years to consider such a proposal during the regular Southeast meeting cycle.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Allowing the use of sport-caught pink and chum salmon as allowable bait for sport fishing and in personal use shellfish pots.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes. When the use of salmon regulation was adopted by the Commissioner in 1996 the use of salmon taken in a hatchery cost recovery fishery, or in a commercial, personal use, or subsistence fishery for bait was allowed. The similar use of sport-caught salmon as bait was not included. When the Board tried to allow the use of pink and chum salmon as bait in Southeast Alaska in January they were advised that they could not do so until the Commissioner first amended his regulation in 5 AAC 93.350.

**ADDITIONAL INFORMATION:** None.

**PROPOSED BY:** Alaska Department of Fish and Game

**ACR #29**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Harvest opportunity for resident species in the Aniak River drainage upstream of Doestock Creek under subsistence hook and line attached to a rod or pole regulations are more restrictive than the sport fishery. The Board should consider whether the current regulations provide a reasonable opportunity for subsistence use of these stocks or, whether increases are appropriate given the higher sport fish limits.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** In January 2004, the Alaska Board of Fisheries amended and adopted Proposal 104, liberalizing Aniak River sport fish bag and possession limits and aligning them with the Holitna River drainage, as follows: Arctic char/Dolly Varden (in flowing waters) daily bag limit, three; Lake Trout, four; Rainbow trout, catch and release only; Arctic grayling, two; Sheefish, two; Northern pike, five, one over 30 inches; Burbot, 15. A similar proposal (Proposal 137) to eliminate the bag limit and other restrictions associated with hook and line attached to a rod or pole subsistence fishery failed. The bag limit for the fishing under the subsistence regulations was not increased to match the increased bag limit under the sport fishing regulations. Currently, the hook and line attached to a rod or pole bag limit under the subsistence regulations for the Aniak River drainage upstream of Doestock Creek between June 1 through August 31, is more restrictive than the sport fish harvest limits.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This is a housekeeping proposal.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

**5 AAC 01.215. Aniak River bag and possession limits.**

From June 1 through August 31, when subsistence fishing with a hook and line attached to a rod or pole, in that portion of the Aniak River drainage upstream of Doestock Creek,

- (1) the aggregate daily bag and possession limit is **ten** [SIX] fish, of which no more than three fish may be salmon, of which no more than two fish may be king salmon; and
- (2) rainbow trout may not be retained.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Not applicable.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Management concerns.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** In the January 2004 BOF meeting, a similar proposal (Proposal 137) to eliminate the bag limit and other restrictions associated with hook and line attached to a rod or pole subsistence fishery failed.

**Submitted By:** Alaska Department of Fish and Game

**AGENDA CHANGE REQUEST NUMBER: 29.**

**PRESENT SITUATION:** Subsistence fishermen using hook and line attached to a rod or pole have lower bag and possession limits for resident fish from the Aniak River drainage than sport anglers.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This is a housekeeping issue related to the January 2004 Board of Fisheries meeting, where a proposal (Proposal 137) to eliminate the bag limit and other restrictions associated with hook and line attached to a rod or pole subsistence fishery failed, and a similar proposal to liberalize the bag and possession limits for the sport fishery (Proposal 104) was adopted. These actions resulted in the subsistence bag and possession limits being more restrictive than those in the sport fishery. The agenda change requests seeks to have the Board consider a proposal to have the same bag and possession limits in the subsistence and sport fisheries in a portion of the Aniak River drainage.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** Not applicable.

**2. Does the agenda change request correct an error in regulation?** Not applicable.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes.

**ADDITIONAL INFORMATION:** ADF&G Division of Subsistence conducted a subsistence harvest household survey project documenting customary and traditional uses of non-salmon fish by residents of Aniak and Chuathbaluk for the 12-month periods between March 1, 2001 and February 28, 2002 and March 1, 2002 and February 28, 2003. Non-salmon fish harvested by hook and line attached to a rod or pole also was documented. Aniak residents used hook and line attached to a rod or pole to harvest between 34% and 38% of the total non-salmon harvest for 2001-02 and 2002-03, respectively.

**PROPOSED BY:** Alaska Department of Fish and Game

**ACR #2**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Proposed amendment to 5 AAC 01.620 (6B) concerning the use of fish wheels. The current code states in section 6B, that a fish wheel must be removed from the water at the end of the permit period. We have seen fish wheels left in the water adjacent to the river bank and floating down the Copper River. Currently there are many abandoned fish wheels stranded on the sandbars in the Copper River near Chitina, Alaska. These fish wheels are left there because it is impossible to retrieve them. The abandoned wheels make an unsightly mess in the river.

Fishing wheels are often left on the river banks at the end of the fishing period. During the winter the wheels become jammed by ice flows then during spring they break loose and float down river, causing debris pile-ups on the sand bars near Chitina and impeding the progress of spawning salmon.

We, the Ahtna people, propose an addition to the code that requires all fish wheels to be tied and secured to their moorings, above the high water mark, so that they will not get loose and float down river.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Since the 1989 McDowell decision, all residents are eligible to harvest fish in the Upper Copper River District. This has increased the number of fish wheels on the river and as a direct result the amount of derelict fish wheels stuck on sandbars has increased.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This proposal is only to change the method of securing and removing fish wheels in the Upper Copper River District.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 01.620 (6) a fish wheel (B) must be removed from the water at the end of the permit period;

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The Upper Copper River District will not be on the BOF's schedule until 2008.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** We, the Ahtna People, are subsistence users who utilize fish wheels to harvest fish in the Upper Copper River District. We have customarily and traditionally used fish from the Copper River since time immemorial. We are concerned about the amount of debris being left on the river's sandbars.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not applicable.

**Submitted By:** Ahtna, Inc.

**AGENDA CHANGE REQUEST NUMBER: 2.**

**PRESENT SITUATION:** There are no current regulations on the storage of fish wheels at the end of the fishing season. 5 AAC 01.620(6)(B) states that a fish wheel must be removed from the water at the end of the permit period.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This agenda change request would require fish wheels in the Glennallen Subdistrict to be stored above the ordinary high water mark at the end of the fishing period.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** No salmon stocks in the Copper River drainage have been determined to be a stock of conservation or management concern by the Board of Fisheries. Following the McDowell decision, the number of fish wheels registered for the Glennallen Subdistrict has increased, as has participation in the fishery. From 1976 – 1989, an average of 93 fish wheels were registered annually with ADF&G, while an average of 119 fish wheels were registered from 1990 – 2006. During these same time periods, the average number of permits issued annually for the Glennallen Subdistrict increased from 477 to 938.

Fish wheels stored below ordinary high water are occasionally pushed into the Copper River by ice or ice jams. Fish wheels also break free during the fishing season as a result of high water from glacial melt or if a sudden surge of water is caused by the draining of a glacial lake upriver. The primary area in which most fish wheels are stored below the ordinary high water is just above the Chitina-McCarthy Bridge. Approximately 15 – 20 fish wheels are located in this area and at the end of the season these are pulled up on the Kotsina River floodplain and left until the next season.

In general, lands below ordinary high water are under the jurisdiction of the Alaska Department of Natural Resources. Little public land is available in the Glennallen Subdistrict and as a result fish wheel owners that do not own private property on the Copper River utilize the lands below ordinary high water. Requiring fish wheels to be moved above ordinary high water at the end of the season may exclude these fish wheel owners from the fishery and reduce subsistence opportunity, or at a minimum increase their costs to participate in the fishery.

**PROPOSED BY:** Ahtna Tene Nene' Subsistence Committee

### **ACR #3**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Proposed amendment to 5 AAC 01.620 (5) concerning the use of fish wheels on the Upper Copper River.

The current code allows for no less than 75 feet between fish wheels. We propose an increase in that distance to 200 feet, because we believe that there are too many fish wheels in the Copper River and that they are too close together. This may have a negative impact on the salmon population and it directly affects the qualified Federal subsistence users, who are unable to have their subsistence needs met. There are too many fishermen from urban areas, who keep clustered fish wheels operating non-stop, seven days a week. There are 8 to 10 fish wheels, 50 feet apart in one area. These wheels run day and night during the fishing season. When fish wheels are situated too close together in one area, there are conservation concerns as well as conflicts over space. Some fishermen have been pushed out of their fishing sites and others have lost most of their salmon due to the over abundance of fishing wheels up river from their fishing sites.

Traditional fish racks, stringing salmon in the water to sand blast the fish before cutting and drying and other traditional processing techniques require a certain amount of space between fish wheels and fishing sites. Additionally, the harvesting of wood for smoking salmon, takes up a lot of space. With a distance of 200 or more feet between fish wheels, the fishing sites will be separated from each other, thereby causing less conflict among users. Also, we have seen salmon waste being caught in the fish wheels, due to the close proximity of the fishing sites.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** The overcrowding of fish wheels on the river was not taken into consideration when the regulation was adopted. Since the 1989 McDowell decision, all residents of Alaska are eligible to fish in the Upper Copper River District and this has caused increased pressure on the river's fish stock.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:**

This proposal is only to change the current set distance between fish wheels in the Upper Copper River District.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

5 AAC 01.620 (5) a person may not set or operate a fish wheel within 75 feet of another fish wheel;

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.**

The Upper Copper River District will not be on the BOF's schedule until 2008.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).**

We, the Ahtna People, are subsistence users who utilize fish wheels to harvest fish in the Upper Copper River District. We have customarily and traditionally used fish from the Copper River since time immemorial.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not applicable.

**Submitted By:** Ahtna, Inc.

**AGENDA CHANGE REQUEST NUMBER: 3.**

**PRESENT SITUATION:** The current subsistence regulation (5 AAC 01.620(5)) states that a person may not set or operate a fish wheel within 75 feet of another fish wheel.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This agenda change request would increase the distance that a fish wheel could be from another fish wheel from 75 feet to 200 feet.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** No salmon stocks in the Copper River drainage have been determined to be a stock of conservation or management concern by the Board of Fisheries. The largest concentration of fish wheels in the Glennallen Subdistrict is just above the Chitina-McCarthy Bridge. Approximately 15 – 20 fish wheels are located in this area and are primarily operated by urban residents (Anchorage and Fairbanks). A second area of fish wheel concentration is at the Chitina Airport where a mix of private land and airport right-of-way contains over 12 fish wheels. Due to the open nature of the river in these sections, wind and blowing silt prevents the use of drying racks. In these congested areas, only a handful of fish wheels tend to catch a large number of fish and the best fishing sites are highly desirable. An increase in the distance between fish wheels would reduce the number of fish wheels at these sites and potentially reduce subsistence opportunity for those fish wheels operators that are displaced as a result.

**PROPOSED BY:** Ahtna Tene Nene' Subsistence Committee

**ACR #13**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Under the current PWS salmon management plan, the set net fishery is allocated 4% of the area-wide enhanced harvest. If the 15 year average setnet harvest exceeds 5%, the fleet is restricted to 36 hours of fishing time per week after July 10. This trigger, a margin of only 1%, creates numerous problems and unforeseen difficulties as described below. We propose the trigger be set at 9%, thus allowing the same 5% margin according to the drift and seine fleets.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

1) **Fishery conservation purpose or reason:** Not applicable.

or 2) **Correct an error in regulation:** Please see attachment.

or 3) **correct an unforeseen effect of a regulation:** Please see attachment.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:**

We do not propose changing the allocation percentages specified in the management plan. It should be noted that the driftnet fleet supports this request. It should also be noted that the effect of this ACR is irrelevant to the seine fleet. Thus it is not an allocative issue, and there is no reason to expect any group other than setnetters to testify.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 24.370 (f)**

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.**

The regulation was adopted at the December 2006 meeting of the Board. Its impact was not fully felt or understood until this past season. Additionally the fleet was unaware of the proposed punitive provisions until the last moment and so failed to fully explain these problems to the board. But given the unforeseen effects and the errors in the regulation, the setnet fleet should not have to endure two more years of such a reduced fishing opportunity before having a chance to explain their concerns to the board.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user**

**sport fisherman, etc.).** I am a set netter. The permit is currently in my wife's name (Lisa Ragland) because we have dabbled in direct marketing, which requires my transporting fish to town during openings. I am also President of the PWS Setnetters' Association, and this ACR is filed on behalf of the Association and myself.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not previously considered.

The Agenda Change will correct the following unforeseen effects of the regulation:

- **RESTRICTION ON HARVEST OF WILD STOCKS:** The wild Eshamy sockeye run is not within the purview of the PWS management plan, yet the 36 hour limitation prevents the setnet fleet from exploiting it. ADF&G has no authority to allow the setnetters extra time to target the Eshamy run, so the regulation unfairly restricts setnet access to this wild stock fishery.
- **ENDANGEREMENT TO VESSELS AND GEAR:** The 36 hour limitation on the setnet fishery results in the setnetters having to sit on shore while the drift fishery is underway. This endangers both setnet and drift gear because the drifters then drift among the stationary setnet buoys and running lines.

The Agenda Change will correct the following errors in the regulation:

- **UNEQUAL EFFECT:** Compared to the 1% trigger for the setnet fleet, the drift and seine fleets may exceed their allocations by 5% before remedial measures are triggered. The triggers should be the same throughout the fishery.
- **UNPREDICTIBILITY:** The setnet fleet is so small (29 permits) and the trigger is so tight (1%), that tripping the trigger is controlled more by the poundage and value of the other fleets' harvests, than of the setnet harvest itself. Thus, the setnet harvest could remain relatively stable in actual numbers from year to year, but will vary widely as a percentage of the area-wide harvest. (In fact the setnet harvest has consistently been about 30% of the Main Bay common property harvest.)
- **INEFFICIENCY:** This season the drifters ended up fishing 96 hours a week to the setnetters 36 hours. This negates the logic of setnetting, being that the stationary and unmanned setnets continue to be efficient during periods of scratch fishing when driftnets (or seines) are impractical.
- **UNFAIR IMPACT:** Both the seine and drift fleets have multiple areas where they can fish. Thus, if they are restricted in one area due to a tripping of the remedial measures of the management plan, they may continue their season elsewhere. Not so the setnet fleet which must simply bring in their nets.
- **UNFAIR IMPACT:** The setnet fleet is the only one of the three fleets with no remedial provision that protects against an especially low harvest. In recent years the Main Bay hatchery experienced production problems that significantly reduced the setnet harvest. Even if the hatchery run failed entirely and the setnet harvest dropped to near zero, there is no compensatory provision in the regulation. The fleet accepts this risk, but it seems only fair that if we are unprotected against the catastrophic years, we ought not to be punished so readily for the bountiful years.

**Submitted By:** Lee Goodman

**AGENDA CHANGE REQUEST NUMBER: 13.**

**PRESENT SITUATION:** In 2006, the set gillnet gear group in Prince William Sound (Area E) was limited to 36 hours of fishing time per week beginning July 10 because their 5-year average exvessel value exceeded 5% of the total common property fishery for enhanced salmon as described in 5 AAC 24.370(c) and (f).

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** The ACR seeks to change the percentage that would initiate an allocative action, (i.e. restriction of fishing time to 36 hours per week after July 10) from the current five percent to nine percent of the previous five-year exvessel value of the total common property fishery for enhanced salmon.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** 5 AAC 24.370. Prince William Sound Management and Salmon Enhancement Allocation Plan was modified by the BOF at the December, 2005 meeting in Valdez. The 2006 fishing season was the first year of implementation for the modified plan.

**PROPOSED BY:** Lee Goodman

**ACR #6**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Proposed change to 5 AAC 06.333, enabling an individual setnet permit holder to hold 2 setnet entry permits to be competitive with the driftnet fishing fleet, which is allowed dual permits under the current regulation.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW.** If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

**1) Fishery Conservation purpose or reason:** Not applicable.

**Or 2) Correct an error in regulation:** Disparity between setnet and driftnet fleet.

**Or 3) Correct an unforeseen effect of a regulation:** Yes, drift gillnetters have distinct advantage by consolidating permits.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This involves gear, not an allocative proposal.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Non allocative.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** This would create a new regulation.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** This is in the regular cycle.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g. commercial fisherman, subsistence user, sport fishermen, etc).** Commercial set gillnet fisherman

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No, it has not been considered before.

**Submitted By:** Frank Tunno

**AGENDA CHANGE REQUEST NUMBER: 6.**

**PRESENT SITUATION:** Presently, a set gillnet permit holder in Bristol Bay may only operate a single permit with a maximum of 50 fathoms of gear. Regulation 5 AAC 06.333 allows the operation of two legally registered drift gillnet permits, owned by two individuals, and up to 200 fathoms of drift gillnet, from a single vessel provided no area specific net restrictions are in place.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** The proposal seeks to allow the possession and operation of two set gillnet permits by an individual. It is implied that the individual owning the permits will be allowed to operate more gear, but that is not defined.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** There are two proposals addressing this issue (15 and 27) to be considered at the December 2006 Bristol Bay Finfish meeting. The regulation in its current form allows the consolidation of drift gillnet permits and actually has the effect of removing mesh and boats from the water. It does allow the use of more net from a single boat but that amount is less than two individual boats would be allowed to fish if the permits were operated separately.

**PROPOSED BY:** Frank Tunno

## **ACR #1**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

December 2003 Proposal 57, which sets the allocation the NRSHA at (A) drift gillnet 84 percent; and (B) set gillnet 16 percent, should be amended to reflect the historical catch between gear types within the NRSHA based upon equal fishing time between gear groups. Based on this updated and more accurate calculation, the allocation should be set for the NRSHA at (A) drift gillnet 65 percent; and (B) set gillnet 35 percent.

At this point the board should not ignore the fact that the allocation percentage has to be changed to create more fair access to the resources between gear types in the NRSHA (as described in regulation 5AAC 39.200 guaranteeing an “equitable distribution of the available harvest between various users.”)

During the October 2005 work session, the board addressed the fact that the management allocation plan in the NRSHA, was not working. The drift netters were not reaching their respective allocations within a reasonable time, resulting in the set netters not being allowed to fish and the Naknek River was exceeding its escapement goal by 50 – 100 % (reference: Proposal 391- formally ACR 3, approved in March 2006).

In December 2003, Proposal 86, called for a recalculation of gear percentages for allocation plans. The board argued that allocation plans are valuable management tools and that the plans were working. The board saw no advantage to changing the allocation at that time and noted that there wasn't any support from local advisory committees. The trend between the board actions in December 2003 and October 2005, clearly indicate that allocation is not working in the NRSHA. Based on its' action in ACR 3 and ACR 36 (submitted in October 2005), the board is under ethical obligation to adjust the allocation percentage. In the same month, the board recognized NRSHA as an independent fishing area (Proposal 73, December 2003). Despite that recognition, the board used numbers which included the Naknek / Kvichak section to determine the NRSHA allocation. The current allocation in the Naknek Special Harvest area was set using historical catch totals from the NRSHA and the Naknek / Kvichak section between 1985 – 2003 (table 12 of 2003 report) However, calculating the NRSHA independent of the Naknek Region (using table 13 from the 2003 report), indicates that there is no historical data which supports an allocation of 84% drift and 16% set within the NRSHA. Instead the data suggests that after two years of fishing evenly in the NRSHA, the appropriate percentage should be 65% drift and 35% set.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Set netters have to stand down while waiting for the drift netters to catch their allocation so the Naknek River has been exceeding the escapement goal. It should be noted that increasing the amount of gear drift netters could use, from 50 fathoms to 75 fathoms (ACR 3, October 2005) proved ineffective in controlling the over escapement (reference table 1). Instead of loosening regulations for drift netters, the board

should adjust the allocation so that the set netters can fish more consistently and fairly (reference table 2).

*Table 1*

2002	The Naknek River escapement of 1.26 million was within its OEG range of 800 thousand to 2 million.
2003	The Naknek River escapement of 1.83 million was within its OEG range of 800 thousand to 2 million.
2004	The Naknek River escapement of 1.94 million was barely within its OEG
2005*	The Naknek River escapement of 2.74 million is above the OEG range of 800 thousand to 2 million.
2006	The Naknek River escapement of 1.92 million was barely within its OEG

*Table 2*

Year	Total tides fished in the NRSHA*	Tides fished by gear type	
2003	45 tides	25 drift tides (55%)	20 set net tides ** (44%)
2005	33 tides	23 drift tides (69%)	10 set net tides*** (30%)
2006	26 tides	20 drift tides (77%)	6 set net tides**** (23%)

\* Total only includes tides where Naknek-Kvichak section was closed to both gear groups.

\*\* During the 2003 season there was no allocation in the NRSHA.

\*\*\* Set netters were not allowed to fish for six tides during the peak of the run waiting for the drifters to reach their allocated percentage of 84%

\*\*\*\* Set netters sat out an even higher ratio of tides despite the board's effort to increase the drift fleets efficiency by adopting ACR 3 and 36 in March 2006.

*Summary: There is a direct correlation between the OEG goals not being met as set netters receive less fishing time within the NRSHA.*

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** To quantify the economic damage suffered by the set netters, before allocation set netters were catching 50% more fish (an average of 35% when the NRSHA was fished evenly between gear types, and then only 16% after allocation was enforced). Most significantly, the set netters are not given the opportunity to fish. As described above, in 2006 set netters only received 6 tides or 23% of the openings in the NRSHA (only including tides where the Naknek-Kvichak section was closed). The general trend was that the set netters would fish one tide and then the drift netters would have to fish four or five tides in order to catch up to their allocated 84%. This makes it clear that the NRSHA allocation is unfair and needs to be corrected. As stated in ACR 5 (October, 2004) submitted by the Naknek-Kvichak set netters and other community members, "The hardship sustained by the set net fleet is transferred to their communities of origin as well as the local community. This is because a disproportionately large percentage of Naknek-Kvichak set netters live in the local communities. Therefore, this regulation has had an unforeseen negative impact on a group made up largely of local residents and almost entirely of Alaska state residents. The drift fleet and processors with a set net fleet, many headquartered outside of Alaska, have been the benefactors." In addition, due to the 50-100% over escapement which has occurred each year since allocation, the set netters

could harvest 100 – 150% more salmon. This is a significant loss of economic opportunity for the NRSHA set netters.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This request is directly related to allocation. The allocation within the NRSHA was not set at appropriate levels for an equal distribution of resources between gear types and emergency efforts by the board to rectify the problem have proven ineffective and unfair.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** The board has recognized and attempted to address failures of the current allocation percentage and its allocation plan within the NRSHA, which it demonstrated by overturning two decision at its March 2006 meeting; ACR 3 accepted in Oct 05, similar Proposal 55 failed in Dec 03 and ACR 36 accepted in Oct 05, after similar Proposal 49 failed in Dec 03. These efforts specifically focus on strengthening the drift fleet. Set netters had to remove running lines and buoys, the NRSHA boundary line was moved to increase fishing space for drifters, and drifters were allowed an additional 25 fathoms of fishing gear to a total of 75 fathoms. During the 2006 season these decisions proved completely ineffective in addressing any of the problems they set out to accomplish including, the drifters inability to reach their allocated percentage in a reasonable amount of time, the set netters not being allowed to fish for significant amounts of time, only being open for 6 tides compared to 20 openings for the drifters within the NRSHA while the Naknek-Kvichak section was closed to both gear types, and the Naknek river continued to exceed its escapement goal.

Reviewing the original data from the Alaska Department of Fish and Game, *Summary of Bristol Bay Sockeye Salmon Catches by Gear Type, 1965-2003 - A Report to the Alaska Board of Fisheries*, which the board used in 2003 to calculate the allocation percentage for the NRSHA, reveals there is no data to support that the NRSHA and the Naknek-Kvichak district should have an identical allocation of 84% drift and 16% set net, especially since in December 2003 the board determined the NRSHA is separate from the Naknek section (see Proposal 73). Therefore, the NRSHA allocation percentages should have been calculated using only historical data within the NRSHA. Table 13 of the 2003 Fish and Game report recorded all the historical data for the NRSHA, and the data clearly suggest a fair allocation would have been and should be 65% drift net and 35% set net. However, the allocation percentage for the NRSHA was calculated based on table 12 of the 2003 Fish and game report which combined all the numbers to create a universal allocation.

Due to the nature of the Naknek River, set net fishermen clearly became more effective at harvesting salmon within the NRSHA than they were in the Naknek-Kvichak sections, which was also noted in the ADFG 2003 Report to the Alaska Board of Fisheries. For example, in 2003 drifter netters and set netters fished the entire season in the NRSHA. Set netters caught 35% of the harvest with 50% less gear (25 fathoms compared to 50 fathoms for drifters) and fished five fewer tides than the drifters, (20 set openings / 25 drift openings). Therefore, the board should recognize that set netters are a necessary part of managing the NRSHA and keeping the Naknek River from over escapement.

The board has consistently denied proposals which adjust allocation based on registered boats in the region. However, because the NRSHA is a very small area with strong currents, it reaches a saturation point where the boats get too clogged to fish effectively. This was clearly demonstrated during the 2006 season. On July 9 approximately 350 boats were fishing in the river. After it was announced that the Naknek-Kvichak section would be opened for fishing, the number of registered boats jumped to 638 boats (see Table 3). Taking into consideration that boat registration is consistently lower in the NRSHA provides further evidence that the allocation of 84% drift and 16% set net should be adjusted to 65% drift and 35% set net.

Finally, it is important for the board to consider that a fisherman, who has fished four to five straight tides (which happened consistently throughout the 2006 season in the NRSHA), is less capable physically to deliver a quality product and less willing to work hard to harvest the fish after going 2 - 2.5 days without sleep. This is unfair to set netters in the NRSHA, who are just sitting around waiting to fish, even though all the escapement goals in the Naknek River are being met and exceeded.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 06.364 (3) (A) and (B) would be amended to state: The harvestable surplus of salmon taken from the NRSHA when it is open and the Naknek-Kvichak District is closed, will be distributed as follows: (A) drift gillnet 65 percent: and (B) set gillnet 35 percent. The drift gillnet and set gillnet fisheries will open separately and be managed based on the allocation in 5 AAC 06.364 (3) (A) and (B).

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** It was not possible to make a proposal to the BOF regarding allocation until a full season was fished under the newly adopted proposals for the NRSHA (adopted March 2006), which were aimed at increasing the ability of the drift fleet to reach their allocated limit more quickly so set netters would not have to wait for them to catch up. These proposals failed to solve the problem for which they were designed. It is imperative this is addressed at the December Board meeting otherwise another three year cycle has to be waited out before the Board revisits the issue.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** I am a Naknek set gillnet commercial fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** This specific agenda change request has not been considered in the past. However, on October 5, 2004, ACR 5 also addressed the unforeseen negative effects on the Naknek-Kvichak set netters. The difference is that ACR 5 requested a restatement of the previous policy of alternating openings by gear type and I am asking for an adjusted allocation based on the historical catch within the NRSHA.

**Submitted By:** Jay Hakkinen

**AGENDA CHANGE REQUEST NUMBER: 1.**

**PRESENT SITUATION:** When fishing in the Naknek River Special Harvest Area (NRSHA), allocation of the harvest is 84% to drift gillnet and 16% to set gillnet. The current plan has been in effect since 2004 season.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR would change the allocation percentages in the NRSHA to 65 percent for drift gillnet and 35 percent for set gillnet.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** Prior to 2004, harvest was not allocated in the NRSHA and the two gear groups fished alternating periods.

The number of permits fishing in the NRSHA based on fish ticket information is shown below:

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Drift net	338	466	406	333
Set net	255	286	286	249

Also, this issue will be addressed at the December 4-12 BOF meeting in Dillingham as follows:

Proposals 53 and 54 request equal fishing time in the NRSHA

Proposals 55 and 56 request alternating tides between gear groups while fishing in the NRSHA

Proposal 63 requests fishing both gear groups at the same time when in the NRSHA

Proposals 87 and 88 request no allocation in the NRSHA.

Proposal 89 requests two drift gillnet periods followed by one set gillnet period in the NRSHA.

Proposal 90 requests allocation of 67% drift gillnet and 33% set gillnet when in the NRSHA.

**PROPOSED BY:** Jay Hakkinen

**ACR #21**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Undue hardship imposed by regulation 5 AAC 06.360 (2), that does not achieve the goal it was designed for.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Not only did this regulation fail to shorten the time between allocation catch, it also eliminated the set group from fishing what we call run tides.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** It is a personal and financial hardship, as well as a safety issue, being eliminated from the tides in which the salmon run heaviest.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 ACC 06.360(2)

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.**

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Commercial fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not to my knowledge.

**Submitted By:** Donald Mack

**AGENDA CHANGE REQUEST NUMBER: 21.**

**PRESENT SITUATION:** When fishing in the Naknek River Special Harvest Area (NRSHA), running lines must be removed from the water at the end of each set gillnet gear period.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR would allow set gillnet running lines to remain in the water when not in use.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** There are three proposals which address running lines and other set gillnet gear issues in the NRSHA that will be taken up at the December 4-12 BOF meeting in Dillingham.

Proposal 65 request running lines to remain in the water for the commercial season.

Proposal 66 requests all gear associated with set gillnet fishing be removed from the water when not fishing.

Proposal 67 requests set gillnet buoys, anchors, and running lines be removed during drift gillnet openings.

**PROPOSED BY:** Donald Mack

## **ACR #11**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

During periods of overescapement in the Nushagak District, the 26% set net allocation defined in regulation 5 AAC 06.367 (2) of the Nushagak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan, was dropped in an effort to prevent over escapement. Subsequently, the set net fishery did not experience equitable and effective access to the resource to help diminish over escapement and in turn did not proportionally experience the robust and record breaking harvest experienced by the drift net fishers.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** An unforeseen effect of this regulation had been to assume that set netters and drift netters could not effectively diminish over escapement if the set netters were given set gillnet only fishing periods, or windows of time during the flood stage of the tide to participate in the sockeye fishery prior to the drift gillnet fishery. As the drift net fishery can participate at any time during the tide cycle, the set net fishers cannot. Allowing a window during the flood stage of the tide does not materially affect the relative over escapement. The set net fishers depend on these windows of time during the flood stage of the tide cycle. Without these windows, set netters are put at an economic disadvantage to harvest the bounty of sockeye that is the cause of the over escapement. These windows of time during the flood stage of the tide do not materially increase or decrease the escapement, but they do materially redistribute the fish catch and contribute to a more equitable access of the fishery.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** Allocation would remain unchanged and unaffected since this ACR is addressing a situation that would occur when Managers are forced to drop allocation and focus on over escapement. This ACR is merely a formal acknowledgement of the Nushagak District set net gear group as a whole. It recognizes the historical capacity of the gear group as a contributing factor and an effective means in the reduction of the over escapement and at a minimum provides the gear group commensurate and equitable access to the resource when there is no material affect relative to the escapement level.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 06.367(d)(3) Nushagak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan.

The requested change would be to specifically allow set gillnet only fishing periods (windows) during the flood stage of the tide cycle during periods of over escapement in the Nushagak District if the over escapement level is relatively and materially unaffected by such windows.

The above is already provided for in 5 AAC 06.367. (d) (3) Nushagak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan. This section allows the commissioner to address changing conditions using publicized short notice openings to achieve allocations. Given the language in this regulation, if relative over escapement is materially unchanged by these windows, or unmanageable without these windows, a set net only window during the flood stage of each tide would be allowed as long as it does not have a relative material effect on over escapement. This would allow the set net fishery to enjoy an equitable access to the same bounty that drift net fishers enjoy during strong runs that lead to over escapement.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Because of the increasing run strengths in the Nushagak District the previous four years, an event such as occurred in 2006 could likely occur again in 2007 as well as subsequent years. In 2006, the Nushagak enjoyed its strongest return ever, but set net fishers did not enjoy this bounty as a result of an 800+ boat fishing fleet nearly round the clock, with one window per day. The window had no material effect on the over escapement. In 2006 the set net fishers had an average year based on the recent years catch data, at the same time the river system they are exclusively tied to enjoyed its finest ever. A repeat of 2006 would put the set net fishery in the Nushagak District at an economic disadvantage to the drift fisheries.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Owner / manger, Ekuk Fisheries LLC

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not my knowledge.

**Submitted By:** Joe Kelso

**AGENDA CHANGE REQUEST NUMBER: 11.**

**PRESENT SITUATION:** Fishing time is adjusted for both set and drift gillnet gear groups in Bristol Bay to manage for escapement goals and allocation percentages. Escapement goals have priority over allocation goals including achievement of minimum escapement goals as well as not exceeding the escapement range. In the last four years, sockeye runs to the Nushagak District have been exceptional. At the same time, the number of drift permits fishing in the Nushagak District has been higher than average (1996-2006 peak registration averages 537). The final harvest percentages for set gillnet permit holders in the Nushagak District have been 35% to 50% below the allocation in the last 4 years. In general, set gillnet fishing has been continuous and drift gillnet openings have been pulsed. The pulsed openings have usually been 6-9 hours of fishing followed by 3-5 hour closures. In 2006, drift fishing was opened for 21 hours at a time with 4-hour closures in between. The escapement in the Wood River in 2006 was 4 million while the escapement goal range is 700,000 to 1,500,000.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR would require a drift fishing schedule that incorporates at least two closures a day during flood tides.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No. When the allocation plan was adopted it was stated that priority would be given to the achievement of biological escapement goals.

**ADDITIONAL INFORMATION:**

Nushagak District Summary Information

Year	Permit Registration	Set Net Harvest Percentage	Total Sockeye harvest	Nushagak District Sockeye Escapement
1999	383	31%	6,175,419	2,269,861*
2000	598	20%	6,367,208	2,116,842
2001	705	21%	4,734,800	2,679,432
2002	465	22%	2,840,031	1,722,519
2003	512	17%	6,665,918	2,241,556*
2004	399	16%	6,104,048	2,144,690*
2005	678	16%	7,132,342	2,958,527*
2006	687	13%	11,061,662	4,854,587
			District Escapement Goal	1,875,000

\* indicates processor limits during the season

There are four proposals regarding the Nushagak District Management and Allocation Plan for consideration by the BOF at the upcoming Bristol Bay BOF meeting. Any of these proposals could be used to address this ACR.

**PROPOSED BY:** Joe Kelso

**ACR #12**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

The inability of the set net fishers to participate in the Nushagak sockeye fishery during Wood River Special Harvest Area (WRSHA) periods in the Nushagak Management Area of Bristol Bay. When ADF&G concentrates the harvesting capacity in the WRSHA, the vast majority of set net fishers inside of the Nushagak District are effectively eliminated from participation in the fishery altogether. This creates a socioeconomic disadvantage for the set net fishery in the Nushagak District.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** An unforeseen effect of this regulation has been to assume that set netters could effectively relocate and participate in the WRSHA. The reality of the situation is that only a handful of set netters have the means or equipment required to relocate and participate in the WRSHA. The Wood River Special Harvest Area Management Plan leaves the set net fishers at a socioeconomic disadvantage and the viability of historically significant harvesters and processors is acutely diminished.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** Allocation would remain unchanged. This ACR is strictly addressing participation within the allocation. Allowing equitable participation by fishers whom have historically harvested Nushagak sockeye is the premise of this ACR. Set net groups such as Ekuk, Igushik, Clarks Point, Coffee Point, Combine Flats, Queens Slough and others are affected by not being able to participate in their historical capacity in the Nushagak sockeye fishery during Wood River Special Harvest periods.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 ACC 06.358 (a) Wood River Special Area Harvest Management Plan. The requested change would be to specifically allow a concurrent set net fishery in the Nushagak District during WRSHA harvest periods.

The above is already provided for in 5 ACC 06.367. (3) Nushagak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan. This section allows WRSHA and the Nushagak District to be open concurrently and to allow set net gear to participate if a gillnet fishery is closed in all districts except the WRSHA. Given the language in

this regulation, this situation has already been anticipated and adopted into the Nushagak Management Plan. In 5 ACC 06.358 (a) it is stated that “It is in the fisheries that have *historically* harvested them, including the *methods, means, times* and *locations* of these fisheries using the best biological management techniques and practices.”

Given the intent of the board in 5 ACC 06.358 (a) Wood River Sockeye Salmon Special Harvest Area Management Plan and the language regarding concurrent fishing in the Nushagak District and WRSOA within the Nushagak District during WRSOA periods, this allows set netters to fish as they traditionally have at times when there are fish to catch.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.**

The parent year of the 2007 sockeye salmon fishery was 2002. In 2002, the Nushagak District was closed on July 6<sup>th</sup>, when the Wood River Special Harvest Area period began. The Nushagak District never reopened. A repeat of 2002 could cause a severe socioeconomic crisis to the 2007 Nushagak set net fishery and create an untenable risk regarding the future viability of set net fisheries in the Nushagak District.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Owner / manager, Ekuk Fisheries LLC

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not to my knowledge.

**Submitted By:** Joe Kelso

**AGENDA CHANGE REQUEST NUMBER: 12.**

**PRESENT SITUATION:** Presently, if sockeye escapement to the Nushagak River falls behind anticipated levels, the commercial fishery can be moved from the Nushagak District into the Wood River Special Harvest Area (WRSHA). The WRSHA can only be opened if the Nushagak River escapement is behind expectations and if the Nushagak District is already closed to fishing. There are many set gillnet permit holders who do not have the equipment or the means to move from their traditional fishing sites in the Nushagak District to the WRSHA. Also, the Ekuk processing plant relies almost completely on set net fish harvested at Ekuk beach and delivered to the plant. The plant would probably have difficulty getting fish to process if there was no commercial fishing in the Nushagak District.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to allow concurrent fishing periods for set gillnet in the Nushagak District and the WRSHA when biological concerns require managers to reduce exploitation on Nushagak bound sockeye.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No. When this regulation was adopted, the set gillnet fleet had at least the same amount of mobility as it does now.

**ADDITIONAL INFORMATION:** The WRSHA was last opened in 2002. In that year, there was a peak of 130 set net deliveries in one 24-hour period. Please note that deliveries are not equal to permits as it is likely that a permit holder delivered more than once in 24 hours. There were 234 set gillnet permits registered to fish in the Nushagak District in 2002. Additionally it is worth noting that the first few sites at the lower end of the WRSHA are much more productive than sites further upriver.

There are four proposals regarding the Nushagak District Management and Allocation Plan for consideration by the BOF at the upcoming Bristol Bay BOF meeting. Any of these proposals could be used to address this ACR.

**PROPOSED BY:** Joe Kelso

**ACR #14**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Reevaluate the escapement goal for the Susitna Drainage. The escapement goal is incorrect and the counter is under counting. The drift fleet is shut down for no good reason which causes excess escapement into the Kenai River.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** The error is that the goal is too high. It doesn't allow for any yield harvest.

**or 3) correct an unforeseen effect of a regulation:** The effect is that everyone has to close down in order to reach the high goal that never produces more fish than the escapement goal.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** It isn't allocative because no one fishes on those fish now so they are not being allocated to anyone at this time.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 ACC 21.358. Northern District Salmon Management Plan

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.**

We are looking at another year before this is taken up and the Kenai River will most likely be over escaped in 2007 in the same manner it was this year for no good reason.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Commercial Driftnet fisherman. Board member of Cook Inlet Aquaculture Association.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.**

**Submitted By:** Steve Vanek

**AGENDA CHANGE REQUEST NUMBER: 14.**

**PRESENT SITUATION:** The sustainable escapement goal (SEG) in the Yentna River is 90,000 to 160,000 sockeye salmon. In addition, in large returns of over 4 million fish to the Kenai River there is an OEG (Optimal Escapement Goal) in the Yentna River of 75,000 to 180,000 sockeye.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to lower the Yentna River sockeye salmon escapement goal to allow for fewer if any closures.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** The escapement goal for the Yentna River is reviewed by the department every three years, most recently in January 2005. At that time three of the last 4 years (2001, 2002, and 2004), the sonar estimates of sockeye salmon into the Yentna River fell below the lower end of the SEG, whereas the 2003 estimate exceeded the upper end of the SEG. The level of escapement in 2003 was the highest observed over the available time series of data. In 2005, the department's escapement goal review committee recommended no change to the SEG for Yentna River sockeye salmon.

For the last 15 seasons the Northern District set gillnet fishery has been closed for one or more periods, except in 2000, and the drift gillnet fishery has been restricted each year for one or more periods in an attempt to meet this escapement goal. Actions taken in the drift fishery may not be observed or realized until 10 to 14 days later and actions taken in the Northern District may not be realized for 7 to 10 days. Once the effects of the first actions are observed it is generally too late to take further corrective actions.

In 2006, ADF&G and CIAA conducted studies on the Susitna River. While results are still preliminary, the sum of the weir counts will exceed the sonar count.

**PROPOSED BY:** Steve Vanek

**ACR #19**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

In the UCI area stop managing for the Yentna goal since there is no available yield from this system there must be some problem with the goal. For the last 20 years since they first came up with the goal we have never been able to fish and make the goal. This has caused a great deal of economic pain in the villages for no gain.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:**

The department put this into regulation but couldn't have envisioned that all fisheries would be closed and still not make the goal.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:**

Everyone is closed with the current goal.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

It isn't allocative because the current management plan closes out everyone, so no one is getting any benefit. The constitution says sustained yield and if the goal is so high that no one can fish then this is not constitutional.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

All regulations regarding the Susitna.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.**

2006 was a very poor fishing year and now we see that it didn't do any good. The State will loose much money if this occurs again, next year.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** I drift, sport and subsistence fish.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** It has not.

**Submitted By:** Peter Retov

**AGENDA CHANGE REQUEST NUMBER: 19.**

**PRESENT SITUATION:** The current sustainable escapement goal (SEG) in the Yentna River is 90,000 to 160,000 sockeye salmon. In addition, in large returns over 4 million fish to the Kenai River there is an OEG (Optimal Escapement Goal) in the Yentna River of 75,000 to 180,000 sockeye salmon.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to stop the current practice of managing for the Yentna River escapement goal altogether.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** The escapement goal for the Yentna River is reviewed by the department every three years, most recently in January 2005. At that time three of the last 4 years (2001, 2002, and 2004), the sonar estimates of sockeye salmon into the Yentna River fell below the lower end of the SEG, whereas the 2003 estimate exceeded the upper end of the SEG. The level of escapement in 2003 was the highest observed over the available time series of data. In 2005, the department's escapement goal review committee recommended no change to the SEG for Yentna River sockeye salmon.

For the last 15 seasons the Northern District set gillnet fishery has been closed for one or more periods, except in 2000, and the drift gillnet fishery has been restricted each year for one or more periods in an attempt to meet this escapement goal. Actions taken in the drift fishery may not be observed or realized until 10 to 14 days later and actions taken in the Northern District may not be realized for 7 to 10 days. Once the effects of the first actions are observed it is generally too late to take further corrective actions.

In 2006, ADF&G and CIAA conducted studies on the Susitna River. While results are still preliminary, the sum of the weir counts will exceed the sonar count.

**PROPOSED BY:** Peter Retov

## **ACR #28**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

The Kasilof River Management Plan and the resulting terminal harvest fishery have serious flaws. The escapement goal within the river has been exceeded nine out of ten years. Current new information indicates that some years there will not be sufficient smolt numbers to replace their apparent year escapements. Tustumena Lake and its tributaries are spawning and to some degree rearing limited. Inconsistent returns violate the concepts of MSY.

Terminal harvests have circumnavigated the historical and traditional fisheries that primarily target Kasilof bound salmon. The combined harvest in 2006 within the terminal area has exceeded the entire Kasilof sub-district harvest. This would constitute a new and expanding fishery. This also violates board umbrella policy that states that it is the intention of the board to promulgate regulations that maintain balance with respect for historical methods and means with time and area within a fishery or with different fisheries. Especially when conservation concerns are to be met, the burden of conservation shall be shared equally and in proportion.

The current terminal fishery cannot be prosecuted in an orderly manner. Enforcement has been lacking due to the erratic activity and the length of time of the openings. Coast Guard regulations have been violated. Terminal boundaries have been exceeded. Gear types are interfering with each other. Gear types are infringing on other gear type areas. A Gold Rush mentality exists that allow a substantial harvest that is positioned by intimidation and force. Individuals that are in closer proximity have set up camps to stake their claim to a fishing site within the terminal area. Those that are not in close proximity do not have equal access to this fishery.

The terminal fisheries within the state allow for allocation between gear types that are proportional to their historical fisheries time and area, methods and means. Preliminary data from 2006 indicates that a disproportional harvest was promoted by current regulations. This violates current precedent court actions that have guided board decisions in the past.

The practice of fishing in a small terminus area brings back the problems associated with sustainability of the 1920's. Terminal zones allow conservation of the non-targeted stocks and a proportion of different age classes and individual strains to survive.

The state leases tidelands to allow set net fishermen and family operations to harvest within certain prescribed areas. Financial obligations are incurred to support the fish site that is required by law.

The fishery is unenforceable and does not provide a predictable and orderly harvest. Violates equal opportunity, promotes lawless activity and subverts the historical fisheries. It also does not apply any of the sustaining principles of the SSFP.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** This is a conservation situation considering over escapement, targeting of non-targeted species and harvesting individual stocks in an unsustainable manner.

**or 2) Correct an error in regulation:** The regulations for the Kasilof River stocks were not addressed at the last regulatory cycle Cook Inlet meeting (2005). Negotiators for the sport interests indicated a flaw in that they had not considered the Kasilof in lieu of the changes to the Kenai Plan.

**or 3) correct an unforeseen effect of a regulation:** Current regulation effects could not have been understood as they were experimental in nature and therefore untried. They were in place to correct management changes from biological management (MSY) to social management (OSY).

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** The concepts of sustainable high and consistent yields allow harvest of all species with in predictable patterns.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** New and expanding fisheries have resulted from the current management plans. Allocations have changed inadvertently and adjustments to maintain balance are necessary.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

5 AAC 21.359, 21.360, 21.363, 21.365

- 1) Delete restrictions to time for any of the Kasilof Management Plan
- 2) Allow more use of the half mile fishery without time restrictions.
- 3) Direct the department to use their authority to prosecute a quarter mile fishery within the Kasilof District.
- 4) Open the South K Beach District (244-310) whenever it is necessary to harvest in the Kasilof Terminal area, using restrictions to area to manage harvest interception of Kenai bound stocks. This is the area to manage harvest interception of the Kenai bound stocks. This is the area that has historically harvested the Kasilof bound stocks as indicated by the Kasilof trap location and the average weight in the harvest stat area.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.**

The forecast for 2007 season indicates a similar return, thus a repeat to this year's confusion. The board must act to allow mangers to best allocate time and area for traditional and historical harvesters to practice common methods and means. Enforcement issues must be clarified before illegal activity results in damage to property or injury to participants. The purpose of the boundaries is to reduce the interception of non targeted species yet violations of the current terminal area has resulted in over 50% harvest of Kenai stocks at a particular time.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** My family has historically fished this area for over 100 years. We have used both subsistence and commercial methods and also homesteaded in the upland areas. We were the last owners of the Kasilof fish trap located approximately 3.5 miles north of the river. I have personally commercial fished this area for over 37 years.

I represent SO-K-I Fishermen's Alliance, which is a group of set net commercial fishermen in the South K-Beach area.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** This has not been discussed sufficiently in any current board meeting although many users have asked for this discussion from the board or in legal action or opinion.

**Submitted By:** Paul Shadura II

**AGENDA CHANGE REQUEST NUMBER: 28.**

**PRESENT SITUATION:** Beginning in 1999, the Board of Fisheries (BOF) established the number of hours of additional fishing allowed by emergency order in the Upper Subdistrict, Cook Inlet set gillnet fishery. In 2002 these limits were put in place for the Kasilof Section. Currently, from the start of the season until July 8, the Kasilof Section set gillnet fishery is managed with two regular 12-hour periods and 48-hours of additional time per week and a 48-hour mandated closed period (window) per week. Beginning July 8 the Kasilof Section is managed in concert with the Kenai Section.

In the Kenai River Late Run Sockeye Salmon Management Plan, the department is limited to 2 regular 12-hour periods per week plus: 24-hours of additional fishing time in runs less than 2 million sockeye salmon to the Kenai River, 51 hours in runs of 2-4 million fish, and 84 hours per week for runs over 4 million fish. There are two closed window periods of 24 and 36 hours window per week for runs between 2 – 4 million fish, and in runs over 4 million fish a single 36-hour window per week. The 36 hour windows are to begin between 7 p.m. Thursday and 7 a.m. Friday.

After July 15, at run strengths less than 2 million to the Kenai River, the department can also utilize an additional 24 hours of time within ½ mile of shore in the Kasilof Section if the 300,000 OEG for the Kasilof River may be exceeded. In addition, within the Kasilof Plan is a provision for fishing within the Kasilof River Special Harvest Area (KRSHA) special harvest area if the escapement is projected to exceed 275,000 sockeye salmon.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This proposal seeks to eliminate restrictions in the Kasilof area, utilize the ½ mile area instead of using the terminal area and use ¼ mile if necessary. It also would mandate the opening of some portion of the Kasilof Section north of the Kasilof River whenever the terminal area is used.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly.

**ADDITIONAL INFORMATION:** The Kasilof River biological escapement goal has been exceeded 6 of seven years since 1999 while the OEG has been exceeded 5 of seven years. Under the current Kasilof River Sockeye Salmon management plan, the department has used the KRSHA much more aggressively in the last three seasons in response to stronger Kasilof River runs in attempts to stay within the current Optimal Escapement Goal of 150,000 to 300,000 sockeye salmon. From 1986 until 2004 the KRSHA was not used. In 2006, approximately one-third of the entire inlet commercial harvest was from the terminal area (680,000 sockeye salmon). Specifically addressing the KRSHA, both the Alaska Bureau of Wildlife Enforcement and the Coast Guard are concerned about the use of the KRSHA. Concerns include but are not

limited to blocking the channel, attaching gear to channel buoys, fishing outside regulatory markers, and gear conflicts.

The Kasilof run size from 1996 to 2002 averaged roughly 790,000 sockeye salmon. Since then (2003-2005), the run size has averaged about 1.26 million sockeye salmon. Even with the increased run size, the commercial fishing exploitation rate has remained stable with 58 percent from 1996 to 2002 and 61 percent from 2003-2005.

**PROPOSED BY:** Paul Shadura II

## **ACR #15**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

The mandatory 48 hours closure per week before July 7. This regulation forces the biologist to declare the 48 hour closure early in the week. If the 48 hour closure can be completed under an acceptable flow rate during that time, the closure is completed. If the flow rate in the river is at an unacceptable rate, the biologist interrupts the declared closure with some commercial emergency openings. If this continues until the end of the week, the biologist is put in a position that he must accept a forced time closure with no consideration to flow rate in the rivers. I strongly believe this is an unforeseen affect of this regulation and should be corrected as soon as possible.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Biologist will and do have long time closures in any river when the flow is at an acceptable rate. An acceptable rate in the river has to be compared with the date, run size, previous catches, previous escapements, test boat data, et cetera. Productive fishing periods one day before mandatory time closures can also show unacceptable flow rates in the rivers that biologists cannot change. This arbitrary time closure must be taken out to stop forcing the biologists decisions once every week throughout the entire salmon season in Cook Inlet.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** Utilization of this over escapement will result in increased catches in ALL user groups, setnet, drift, sport and dipnet fisheries.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** Kasilof River Sockeye Management Plan – 5 ACC 21.365 (2) (B)

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.**

All user groups understand the importance of the cycles of salmon. The situation that has been created by adopting this regulation needs to be corrected as soon as possible before this abundant surplus manifests itself for a “second cycle”.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Commercial fisherman – Eastside setnetter

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Discussions were heard at the time of implementing these closures. Arguments were purely speculative. Numbers of sockeye salmon had to appear in rivers under the new regulations to substantiate one side or the other. The steady over escapement in the rivers very much underlines the importance of not tying the biologist's hands in terms of "pre-set" time closures as compared to natural salmon flow rates.

**Submitted By:** Ron Garrnat

**AGENDA CHANGE REQUEST NUMBER: 15.**

**PRESENT SITUATION:** Beginning in 1999 the Board of Fisheries (BOF) established the number of hours of additional fishing allowed by emergency order in the Upper Subdistrict set gillnet fishery. In 2002 limits were put in place for the Kasilof Section. Currently, from the start of the season until July 8, the Kasilof Section set gillnet fishery is managed with 48-hours of additional time per week and a 48-hour mandated closed period (window). Beginning July 8 the Kasilof Section is managed in concert with the Kenai Section.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This proposal seeks to eliminate these closed window periods.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly.

**ADDITIONAL INFORMATION:** The Kasilof River biological escapement goal has been exceeded 7 of 8 years since 1999 while the OEG has been exceeded 6 of 8 years.

**PROPOSED BY:** Ron Garrant

**ACR #24**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

The terminal area in the Kasilof River should be stopped from being used until the conditions in the plan are met.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** The current management of the Special Harvest Area is killing the Kasilof King run.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** Because the commercial nets could fish the regular area instead. It makes no sense at all to have a window to help in river fisheries and then open the terminal area during the window which kills the river much more.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** This is not allocative, but the department during the last three years has reinterpreted this plan to use this area almost from the start of the season and then daily. It is a total reallocation and is killing the river.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 ACC 21.365 The Kasilof River Management Plan.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Waiting until the regular cycle will allow a fourth year of indiscriminant use of this area.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Sport fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not to my knowledge.

**Submitted By:** Jim Bell

**AGENDA CHANGE REQUEST NUMBER: 24.**

**PRESENT SITUATION:** The commissioner may, by emergency order, open the Kasilof River Special Harvest Area to the taking of salmon by gillnets when it is projected that the Kasilof River sockeye salmon escapement will exceed 275,000 fish.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Stop using the terminal area in the Kasilof River until the conditions in the plan are met.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** The Kasilof River Special Harvest Area was developed by the Board of Fisheries in 1986 to be used in a year such as 2006. During the past three seasons, the Kasilof River Special Harvest Area has been opened by emergency order to the taking of salmon by gillnets when it was projected that the Kasilof River sockeye salmon escapement would exceed 275,000 fish. The terminal harvest area was used more extensively in 2006 when directed fisheries on Kenai River sockeye salmon were closed for conservation reasons and the only tool available for managers to harvest the abundance of Kasilof River sockeye salmon was the Kasilof River Special Harvest Area. Although 680,000 sockeye salmon were commercially harvested in the terminal harvest area in 2006, the Kasilof River OEG of 150,000 to 300,000 was exceeded by 67,000 sockeye salmon. The Chinook salmon harvest was 2,518 in this same area.

A study began last year on Kasilof River late-run Chinook salmon that will estimate the spawning distribution, age, sex and length (ASL) composition of the inriver return, and attempt a preliminary estimate of the inriver abundance.

**PROPOSED BY:** Jim Bell

**ACR #27**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Kenai River returns have exceeded the escapement goals for the past 5 years. Excessive escapements have resulted in high concentrations of fry populations in the main rearing system of Skilak Lake. Poor light conditions or other factors may have created a declining situation of survivability of the fry through the winter.

In river escapement goals with the “tier” system have not worked to allow an orderly harvest of the available surplus sockeye. There is a gross loss of opportunity for all resource users utilizing the current strategy.

Minimum escapement in river goals above the counter, are too high to stay within the biological escapement goal for the prime SSFP objective of MSY.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Conservation of the resource is greatly affected when you consider different age classes that may not return in sufficient numbers for an orderly harvest. Restrictions to different fisheries may be required resulting in a loss opportunity and higher escapements of other classes resulting again in stressing the rearing system which could result in a dramatic crash in the systems ability to recover or replace it’s self.

**or 2) Correct an error in regulation:** Changes would correct an error in current regulations that hinder harvest.

**or 3) correct an unforeseen effect of a regulation:** This effect could not have been known at the time of adoption as this was a departure from the management plans that were successful in recovering the dwindling fisheries from the late 60’s and early 70’s with in Cook Inlet. Sufficient time has to past where it is obvious to the managers and users that this plan is seriously flawed and should be corrected immediately.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** All users will appreciate a return to high sustained yield and a historical and predictable future.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 21.31, 21.310, 21.320, 21.357, 21.349, 21.360, 21.363, 21.365, and others. Return the Kenai River escapement to a single range of 400 k – 700 k sockeye. Rescind all restrictions on commercial set net fisheries that refer to windows and EO allowable hours.

Allow fisheries managers to use their in season management expertise to manage for MSY and consistent harvests in the historical and traditional practice. Rescind the restrictions for time and area in the month of August to allow for harvest of excess stocks and harvesting of underutilized resources such as pink salmon.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Escapement ranges have not been met in the Kenai River for the last five years and in the Kasilof for the last nine out of ten years from the management emphasis on the Kenai management plan.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Kenai Peninsula Fishermen's Association – trade organization with members who are involved with set netting within the Cook Inlet.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** KPFA has submitted several proposals over the years that have addressed the problem with using political management decisions instead of sound biological management.

**Submitted By:** Kenai Peninsula Fishermen's Association

**AGENDA CHANGE REQUEST NUMBER: 27.**

**PRESENT SITUATION:** The Sustainable Escapement Goal (SEG) for late-run Kenai River sockeye salmon of 500,000 to 800,000 spawners. The BOF has established a regulatory Optimum Escapement Goal (OEG) of 500,000 to 1,000,000 sockeye salmon for this run. At run strengths less than 2 million, the department is directed to manage for an in-river run goal of 650,000 to 850,000 sockeye salmon past the sonar counter at river mile 19. At run strengths between 2 and 4 million the in-river run goal is 750,000 to 950,000 and at runs greater than 4 million fish it is 850,000 to 1.1 million. There are currently two 12-hour regular fishing periods each week. In addition, there is specified emergency order fishing time in the Upper Subdistrict set gillnet fishery of no more than 24 hours in runs of less than 2 million, no more than 51 hours in run sizes of 2 to 4 million Kenai River sockeye salmon, and no more than 84 hours per week for runs over 4 million fish. Closed window periods are also in effect for runs over 2 million, specifically two window periods per management week, one 24 hours in duration and the second 36 hours long, while in runs greater than 4 million fish, there is a single 36-hour window mandated in the management plan.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to reduce the SEG from 500,000 – 800,000 to 400,000 to 700,000 late-run sockeye salmon and to remove the hourly limits on additional time and mandated closed window periods currently in regulation.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** Since 1999 the Kenai River in-river run goal has been exceeded 5 of 8 years and within the goal three times. During that same time period, the Kenai River was below the optimum escapement goal (OEG) twice, within the OEG three times, and was exceeded three times. The Kasilof River biological escapement goal has been exceeded 7 of 8 years since 1999 while the OEG has been exceeded 6 of 8 years. The Yentna River sustainable escapement goal has been exceeded once, within the range twice, and under the goal 5 times, and since 1999.

**PROPOSED BY:** Kenai Peninsula Fishermen’s Assoc.

## ACR #9

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Current Upper Cook Inlet Management Plans are not working. The plans are confusing and contradictory. Escapement goals are rarely met, if ever.

1. Either the BOF supports and practices escapement goal management or they don't support them. By supporting escapement goal management practices the BOF has an obligation to develop management plans that enable ADF&G to meet these escapement goals. Clearly, over the past ten years escapement goals have not been met in the Upper Cook Inlet.
2. Developing management plans that exceed or fail to meet escapement goals is an allocation that has never been deliberated by the BOF. The cumulative effects of the various management plans on escapement goal management have never been deliberated by the BOF.
3. By default, when an escapement goal is exceeded there is a corresponding reallocation that occurs in-season.
4. The BOF must decide if escapement goals mean anything. The BOF developing regulatory management plans that deny the possibility of meeting an escapement goal is contradictory at best, perhaps illegal.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Escapement goals are rarely met. The counts are almost always under escapement goal numbers thus creating future yield concerns. Please refer to Table 1 (attached).

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Over the past 17 years the Upper Cook Inlet Salmon Management Plans have been revised and changed such that none of these plans are now functional on either small or large returns to Upper Cook Inlet. Please refer to Table 1 (attached).

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This ACR is non-allocative and returns the management plans to a time when escapement goals were not met. All users groups were reasonably satisfied with the 1993-1994-1995 regulations for the Upper Cook Inlet Salmon Management Plans – adopting these regulations returns everyone to a time when escapement goals were met and management plans actually worked.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Since 1996, escapement goals have rarely been met. Adopt

the 1993-1994-1995 Management Plans that were legally noticed, had public testimony, and deliberated by the BOF for one year (until next regular Upper Cook Inlet cycle in 2008).

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

Re-adopt the following regulations as stated in the 1993 – 1995 ADF&G regulations:

- 5 AAC 21.310 Fishing Seasons
- 5 AAC 21.320 Weekly Fishing Periods
- 5 AAC 21.359 Kenai River Late Chinook Salmon Management Plan
- 5 AAC 21.360 Kenai River Sockeye Salmon Management Plan
- 5 AAC 21.363 Upper Cook Inlet Salmon Management Plan
- 5 ACC 21.365 Kasilof River Sockeye Salmon Special Harvest Area Management Plan

And repeal the current regulations:

- 5 ACC 21.310 Fishing seasons
- 5 ACC 21.320 Weekly Fishing Periods
- 5 ACC 21.357 Kenai River Coho Salmon Conservation Management Plan
- 5 ACC 21.358 Northern District Salmon Management Plan
- 5 ACC 21.359 Kenai River Late Chinook Salmon Management Plan
- 5 ACC 21.360 Kenai River Sockeye Salmon Management Plan
- 5 ACC 21.363 Upper Cook Inlet Salmon Special Harvest Area Management Plan
- 5 ACC 21.365 Kasilof River Sockeye Salmon Special Harvest Area Management Plan

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Why prolong the pain and grief for Alaskans? Future conservation and stock problems will occur in 2007.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Commercial fisherman, sport and subsistence users.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No, this ACR has never been considered before. However, all these regulations being proposed for re-adoption worked well for three years.

Table 1  
**Escapement Goal Patterns  
 1991 – 2006**

Year	Kenai River	Kasilof River	Yentna River	% Met / % Not Met
1991	met	met	met	

1992	not met+	met	not met-	11 goals met (73%)
1993	not met+	met	met	4 goals not met (27%)
1994	not met+	met	met	
1995	met	met	met	
1996	met	met	not met-	
1997	not met+	not met+	not met+	6 goals met (40%)
1998	met	not met +	met	9 goals not met (60%)
1999	met	not met+	not met-	
2000	not met-	not met+	met	
2001	not met-	not met+	not met-	
2002	not met+	met	not met-	1 goal met (6.6%)
2003	not met+	not met+	not met+	14 goals not met (93.4%)
2004	not met+	not met+	not met-	
2006	not met+	not met+	met	
Above Goal +	9/11	9/9	2/9	Total 20/29
Below Goal -	2/11	0/9	7/9	Total 9/29

Source: ADF&G 2005 Annual Management Report

**Submitted By:** United Cook Inlet Drift Association (UCIDA)

**AGENDA CHANGE REQUEST NUMBER: 9.**

**PRESENT SITUATION:** Currently there are 10 management plans that are in effect that direct the department in how to manage the commercial fishery in UCI. These plans are very complex and contain many stipulations on fishing time and area to various degrees depending on preseason projections, inseason escapement projections, and inseason run projection corrections.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Return most Cook Inlet commercial regulations to what they were in 1993-1995.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** Since 1999 the Kenai River in-river run goal has been exceeded 5 of 8 years and within the goal three times. During that same time period, the Kenai River was below the optimum escapement goal (OEG) twice, within the OEG three times, and was exceeded three times. The Kasilof River biological escapement goal has been exceeded 7 of 8 years since 1999 while the OEG has been exceeded 6 of 8 years. The Yentna River sustainable escapement goal has been exceeded once, within the range twice, and under the goal 5 times, and since 1999.

The suite of plans that govern the management of Upper Cook Inlet salmon stocks have a number of complex and competing objectives that are often difficult to interpret and enact in attempting to achieve escapement goals and in-river goals for the various stocks. As stated in this ACR, in the last 10 years the department has had difficulties meeting escapement goals. The two most critical issues in not achieving escapement objectives are closed windows and fishing time limitations. The department has utilized every available tool and hour, including occasionally going outside the current management plans, but still has not been able to stay within the escapement goals and in-river goals as established in the plans. In general the Kenai and Kasilof Rivers goals have been exceeded while the Yentna River has been under the goal. The mandatory closed periods (windows) allow an uncontrolled number of fish to escape that often must be compensated for by fishing the non-window days more aggressively than might otherwise be necessary. In most instances, the current allowable fishing time does not allow the department to achieve the goals.

**PROPOSED BY:** United Cook Inlet Drift Assoc.

## **ACR #18**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

There is an error in the regulations addressing the transition from sockeye management to Coho management in the commercial set net fishery in Upper Cook Inlet.

During the January 2005 Upper Cook Inlet Fin Fish meeting Department staff and members of the various user groups arrived at an approach to define when the Department would transition from sockeye salmon management to Coho salmon management. Although numerous approaches were discussed the one that was eventually agreed to was to define the termination of the commercial sockeye season to be when the commercial catch was 1% or less of the cumulative season total for two consecutive commercial fishing periods. This agreement was part of a complex set of negotiations and collaborative efforts among users. The Board took action on this approach and adopted it into regulation. Following that action staff took steps intended to “clarify” the regulation and the result is the language we presently have in 5AAC 21.310 (b) (2) (C) (iii). This provision now contains language that was inserted during the editing process that, if followed to the letter, subverts the intent of the Board when it passed this regulation in January 2005. The inserted language redefines a fishing period to include “a time period open to commercial fishing without closure”. Under this inserted language this could include several days rather than the daily periods upon which the 1% trigger was selected. There is no record that the language in question was ever formally acted on by the Board (RC or Amendment to the proposal by a Board member during deliberations) and although intended to help clarify the regulation the added language has the opposite effect.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** This ACR seeks to correct an error in regulation. As the regulation currently appears in the codified regulations it is not in the form that was passed by the Board of Fisheries in January 2005. Absent any formal record of how the inserted language was placed into the codified regulations (RC or Amendment to the proposal by a Board member during deliberations) and the fact that the strict interpretation of the current language results in making this Board action moot, we believe the wording should be corrected. The new language must be consistent with the intent and spirit of the regulation when passed by the Board in January of 2005 and be clearly understood by the staff and the public.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** The allocative nature of this regulation has already been dealt with by the Board at the January 2005 meeting. The fact the Board took action on this regulation and passed the wording they did reflects the Board’s position on this issue. We seek only to correct an error in the wording found in the current regulation which prevents the use of this direction inseason.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** We do not believe the correction to the regulation we seek is allocative. The allocative decisions have already been made at the prior Board meeting.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5AAC 21.310 (b) (2) (C) (iii) and reads: Kenai, Kasilof, and East Forelands Sections:

the season will close August 10, unless closed earlier by emergency order after July 31, after the department determines that less than one percent of the season's total sockeye harvest has been taken per fishing period for two consecutive fishing periods; for purposes of this sub-subparagraph, "fishing period" means a time period open to commercial fishing without closure;

Recommended substitute language that reflects the board's intent would read:

the season shall close August 10, unless closed earlier by emergency order after July 31, after the department determines that less than one percent of the season's total sockeye harvest has been taken per fishing period for two consecutive fishing periods; for purposes of this sub-subparagraph, "fishing period" means a time period open to commercial fishing without closure

Options:       per calendar day,  
                  within a 24 hour period,  
                  for at least 12 and not more than 24 hours

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The correction we seek allows the full package of regulatory changes approved by the BOF in January 2005 to be implemented. The collective changes were a product of extensive participation by the users and involved give and take on all sides. Correcting the wording in this regulation so that the intent may be implemented is an important part of the compromises reached among the users at the previous meeting. To allow this error to stand is a disservice to the Board process and to those who participate in it, and will continue to allow the prior Board action and intent to be subverted. The incorrect language has already affected how fishing periods were set after August 1 in 2005. Prior to that date, fishing periods were typically limited to portions of the day when fishing conditions were optimal. After that date, fisheries were opened around the clock with the result being no interruptions that would require consideration of the 1% trigger. This correction did not affect 2006 management however it is likely to be used in 2007.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).**

Kenai River Sportfishing Association is an organization dedicated to conservation and habitat protection and rehabilitation. KRSA serves the interests of in-river sport and personal use fishermen and operates under the principle of open public access to public resources within the biological limits necessary to conserve the stocks.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF**

**SO, DURING WHICH BOARD OF FISHERIES MEETING.** This ACR seeks to correct language that was inserted following Board action on the issue. We seek to only address the editorial error that exists. To the extent the topic has been discussed and resolved by the Board in January 2005, we do not seek to rehash any of that discussion.

**Submitted By:** Kenai River Sportfishing Association

**AGENDA CHANGE REQUEST NUMBER: 18.**

**PRESENT SITUATION:** Current regulations for the Upper Subdistrict set gillnet fishery read "Kenai, Kasilof, and East Forelands Sections: the season will close August 10, unless closed earlier by emergency order after July 31, after the department determines that less than one percent of the season's total sockeye harvest has been taken per fishing period for two consecutive fishing periods; for purposes of this sub-subparagraph, "fishing period" means a time period open to commercial fishing without closure".

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This proposal seeks to define a fishing period by day.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** In its deliberations in March 2005, the board was clear in defining a fishing period and this was clarified on the record, with other members agreeing, including the committee chairman (recorded file BOF1-26-05 5-14 01c503ca7e161260) that it was not by day but by a period.

A similar ACR was submitted by the same proposer and denied at the October 2005 work session.

**PROPOSED BY:** Kenai River Sport Fishing Assoc.

**ACR #22**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Return the lower end of the escapement goal in the Kenai River to 600,000.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** In 2005 the sport fishing department lied when it said the sport harvest is 150,000 at low runs. It gave a harvest of 150-205,000 for years 1996-2004. These are all 6 fish bag limit years. The current bag limit of three existed before 1995. This closed everyone in 2006 for an additional couple of days that wasn't necessary.

**or 3) correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** Because it fixes a problem which leads to everyone getting closed.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 ACC 21.360

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** It will be heard then, unless you fix it now. This regulation is flawed because it is not based on correct numbers.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Sport fisherman

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not to my knowledge.

**Submitted By:** Jeff Fischer

**AGENDA CHANGE REQUEST NUMBER: 22.**

**PRESENT SITUATION:** The SEG for late-run Kenai River sockeye salmon is 500,000 to 800,000 fish, and the OEG is 500,000 to 1,000,000 for this run. At run strengths less than 2 million, the department is directed to manage for an in-river run goal of 650,000 to 850,000 sockeye salmon past the sonar counter at river mile 19.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This proposal seeks to reduce the lower end of the in-river run goal from 650,000 to 600,000. The lower end of this goal was 600,000 from 1999 through 2004.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** Prior to 2005 BOF meeting, at run strengths less than 2 million, the in-river goal was 600,000 to 850,000 sockeye salmon. The sport fishery had a bag limit of 3 sockeye salmon until 1996 when it was increased to 6. Prior to 1996, the bag limit was increased to 6 only when the upper end of the goal was exceeded. In both 2000 and 2001 sonar passage estimates very near the 600,000 level resulted in closures to the commercial and sport fisheries in an attempt to reach the lower end of the OEG of 500,000 sockeye salmon. In 2002 the board returned the bag limit to three sockeye salmon rather than raising the lower end of the in-river run goal to 650,000 fish. The board also stipulated that subject to the requirement of achieving the lower end of the OEG, when the abundance of late-run Kenai River sockeye salmon exceeds 2 million fish, the bag limit may be increased by emergency order to 6 fish. With the lower end of the in-river goal at 600,000, that would leave 100,000 fish that could be harvested in the sport fishery above the sonar counter at river mile 19. At the January 2005 Board of Fisheries meeting, the board allocated an additional 50,000 sockeye salmon to the inriver sport fishery because the sport harvest above the sonar site has ranged from approximately 147,000 to 253,000 sockeye salmon since 1996 and has increased each year despite decreasing the bag limit in 2002.

An identical ACR was submitted and denied at the October 2005 work session.

**PROPOSED BY:** Jeff Fischer

**ACR #10**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

The problem is the opening date of the dipnet fishery on the Kenai River. The dipnetting occurs downstream of the counter. Dipnetted fish therefore are not counted towards the B.E.G. In years of low returns priority users (commercial fishermen) are restricted until the B.E.G. is certain.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** This effect on the commercial fishery was unforeseen.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** It is not allocative because the dipnet fishery will still occur when the BEG is met.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 21.310. Fishing seasons (ii) & (iii)

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** We are faced with a low return in 2007. Thus we would have to wait until 2008 for relief.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** A commercial fisherman

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No, it has not.

**Submitted By:** Steve Vanek

**AGENDA CHANGE REQUEST NUMBER: 10.**

**PRESENT SITUATION:** The Kenai River Late-Run Sockeye Salmon Management Plan (5 AAC 21.360(g)) states that subject to the requirement of achieving the lower end of the optimal escapement goal, the department shall provide for a personal use dip net fishery in the lower Kenai River as specified in 5 AAC 77.540.

The Upper Cook Inlet Personal Use Salmon Fishery Management Plan (5 AAC 77.540 (c)(1)(A)) states that the personal use dip net fishery in the Kenai River is open from July 10 through July 31, seven days per week, from 6:00 a.m. to 11:00 p.m. The commissioner may extend, by emergency order, the personal use fishery to 24-hours per day if the department determines that the abundance of the Kenai River late-run sockeye salmon is greater than two million fish.

**WHAT THE PROPOSAL SEEKS TO CHANGE:** The proposal seeks to change the season opening date for the Kenai River personal use dip net fishery. The proposal does not provide a date or trigger to establish when the Kenai River personal use dip net fishery should open.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** The department uses its emergency order authority to modify the Kenai River personal use dip net fishery to meet the optimal escapement goal of 500,000 to 1,000,000 late-run sockeye salmon. During years of low returns where achieving the optimal escapement goals require conservative fisheries management actions, all user groups targeting Kenai River bound late-run sockeye salmon are restricted.

A similar ACR was submitted and denied at the October 2005 work session.

**PROPOSED BY:** Steve Vanek

## **ACR #16**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

The return numbers of Russian River early-run sockeye in the years since 2000 average about three times the annual early-run returns in the 1960s. The desired escapement range is between 14,000 and 37,000. Only once in the last five years has the escapement been within this range; escapement during the other four years exceeded 37,000. The problem is that anglers cannot catch enough to achieve the desired escapement. A solution is to allow snagged fish to be retained in the Russian River “sanctuary” area. Gear requirements would remain the same -- single hook fly – but fish snagged anywhere on the body could be retained. In addition any snagged fish that is removed from the water would have to be retained. Currently, most of the fish in the early-run fishery hooked are not legally hooked (snagged) and must be returned to the fishery. This means considerable fishing effort per angler to legally hook and land a sockeye. If snagging were allowed, there would be a greater turnover of anglers; harvest efficiency would dramatically increase; and far fewer sockeye would be returned to the fishery that have been snagged, and injured.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Achieving the desired escapement range may provide more sockeyes to the fishery than exceeding the desired escapement range.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This request only affects the harvest of early-run Russian River sockeye, which is a sport fishery only. It would have no allocative impact either within the commercial fishery or between the commercial and sport fisheries.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 ACC 56.023(4)(A-E)

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Harvestable surplus of early run Russian River sockeyes not being utilized.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Sport fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No, it has not.

**Submitted By:** Jan Konigsberg

**AGENDA CHANGE REQUEST NUMBER: 16.**

**PRESENT SITUATION:** The Russian River sanctuary area consists of waters upstream from ADF&G regulatory markers located just downstream of the ferry crossing on the Kenai River, to ADF&G regulatory markers located approximately 300 yards upstream of the public boat launch at Sportsman’s Landing, including the waters around the upstream end of the island near the Russian River mouth, and the Russian River from its mouth upstream 100 yards to ADF&G regulatory markers. The Russian River sanctuary area is closed to fishing from May 2 – July 14 unless opened by Emergency Order when the department can project that the lower end of the sustainable escapement goal of 14,000-37,000 Russian River sockeye salmon will be met. These waters are designated as fly-fishing-only waters and the legal gear type is restricted to an unweighted single-hook fly with gap between the point and shank of 3/8 inch or less. Weights may only be used 18 inches or more ahead of the fly and beads not attached to the fly are not allowed.

Statewide regulations prohibit intentional snagging of fish in the fresh waters of Alaska. Statewide regulations also prohibit the retention of a fish unintentionally hooked elsewhere than in its mouth in the fresh waters of Alaska.

**WHAT THE PROPOSAL SEEKS TO CHANGE:** The proposal seeks to change the legal means of catching sockeye salmon in the Russian River sanctuary by allowing anglers to retain sockeye salmon hooked in areas elsewhere than in the mouth using currently legal gear.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** During years of strong early-run sockeye salmon returns to the Russian River, the department liberalizes the sport fishery by opening the sanctuary area to sport fishing and by raising the daily bag and possession limits. The average Russian River early run escapement goal of 14,000-37,000 sockeye salmon has been exceeded 6 of the last 12 years and overall the total number of sockeye salmon in excess of the escapement goal has averaged 20,000 sockeye salmon over the goal (54%) in the last 12 years.

A proposal to allow sockeye salmon unintentionally hooked other than in the mouth to be retained has been submitted for consideration during the March 2007 Statewide Finfish Board of Fisheries meeting.

**PROPOSED BY:** Jan Konigsberg

**ACR #4**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

The Ahtna People believe that due to the information contained in a recently published report by the Alaska Department of Fish and Game's subsistence division, on the customary and traditional use of freshwater fish by the Ahtna People in the Ahtna region, the BOF should consider a new regulation determining the customary and traditional use of freshwater finfish in the Upper Copper River / Susitna River Area.

**Create new regulation:**

5 AAC 52.XXX. Customary and traditional subsistence uses of fish stocks in the Upper Copper River / Upper Susitna River Drainages.

The Alaska Board of Fisheries finds the following fish stocks are customarily and traditionally taken or used for subsistence: Rainbow Trout, Steelhead Trout, Artic Char, Dolly Varden, Artic Grayling, Burbot, Lake Trout, White Fish and various other freshwater finfish.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** A recent report created by the Alaska Department of Fish and Game's subsistence division, gives evidence of customary and traditional use of freshwater fish by the Ahtna People in the Upper Copper River / Upper Susitna River area.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This proposal is for a customary and traditional use determination in the Upper Copper River / Susitna River area only.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** This is a new C & T use determination for the Upper Copper River / Susitna River area.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The Upper Copper River / Upper Susitna River area will not be on the BOF schedule until 2008. With the new evidence presented in the ADF & G's Subsistence

Department's recent report, we believe that we can finally establish C & T use of the freshwater finfish species in the Upper Copper River / Upper Susitna River Drainage. It would be difficult to wait until 2008 for a C & T use determination of the area.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** We, the Ahtna People, have customarily and traditionally used Rainbow Trout, Steelhead Trout, Artic Char, Dolly Varden, Artic Grayling, Burbot, Lake Trout, White Fish and various other freshwater finfish species from the Copper River, Susitna River, Cobb Lake, Crosswind Lake, Ewan Lake, Gene Lake, Fish Creek, Hogan Hill Lake, Horseshoe Lake, Indian Pass Lake, Jack Lake, Lake Louise, lake off MacClaren, Mabel Lake, Mankomen Lake, Meiers Lake, Mendeltna Creek, Mentasta Creek, Mentasta Lake, Mineral Lake, Moose Lake, Mud Lake, Game Trial Lake, Paxson Lake, Popular Grove Creek Lake, Rufus Creek, Salmon Berry Lake, Salmon Berry Creek, Slana River, Susitna Lake, Suslota Lake, Tanada Creek, Tanada Lake, Tangle Lakes, Tolsana Creek, Tyone River, Tyone Lake and many other freshwater bodies in the Ahtna Region for subsistence needs, since time immemorial.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No, it has not been considered before.

**Work Sited throughout this request:**

*The Harvest and Use of Non-Salmon Fish Species in the Copper River Basin, Alaska*  
William E. Simeone and James Kari (ADF&G, 2004)

**Submitted By:** Ahtna, Inc.

**AGENDA CHANGE REQUEST NUMBER: 4.**

**PRESENT SITUATION:** Residents of the Copper River Basin currently harvest non-salmon fish species under subsistence permits issued by the department. Seasons and bag limits for the subsistence harvest of all non-salmon fish species, except lingcod (5 AAC 01.610 (f) and 5 AAC 01.645(d)), are set at the discretion of the department. There was no consistency review for finfish in the Copper River and upper Susitna drainages at the 1993 Board of Fisheries meeting; and since then the Board has not made a finding of customary and traditional uses of finfish for these fisheries.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** The agenda change request seeks to have the board make customary and traditional use findings for non-salmon fish species in the Copper River and Upper Susitna drainages. If the Board made a positive finding, the Board would next consider the amount reasonably necessary for subsistence; and determine whether the current regulations provide a reasonable opportunity for subsistence uses.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:**

In 2003, the Division of Subsistence conducted a subsistence harvest household survey with 495 households in Copper Basin communities documenting customary and traditional uses of non-salmon fish species for the 12-month period between October 1, 2000 and September 30, 2001. This harvest was from the freshwater lakes and streams within the Copper River Basin and the upper Susitna Drainage. The study showed fishing for non-salmon during open water and through the ice. Virtually all resident fish species were harvested. Communities generally harvested non-salmon species nearby their home community.

**PROPOSED BY:** Ahtna Tene Nene' Subsistence Committee.

## **ACR #5**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Noncommercial harvesting of aquatic plants, primarily seaweeds and kelp, is common and widespread in coastal communities of Alaska. Under AS 16.05.920, “Unless permitted by AS 16.05 – AS 16.40 or by regulation adopted under AS 16.05 – AS 16.40, a person may not take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game, or marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg of fish or game.” Except in the Southeastern Alaska Area (5 AAC 01.713, 5 AAC 01.745(d)), current regulations do not allow the harvesting of aquatic plants unless the harvester obtains a permit issued by the department (5 AAC 37.100) and a season is opened by emergency order (5 AAC 37.200). Although there is no legally-mandated subsistence priority in statute for taking aquatic plants, the board may identify customary and traditional uses and provide for a noncommercial taking of aquatic plants, as the board has done in the Southeastern Area.

Until recently, the permit requirement and closed seasons for noncommercial harvesting of aquatic plants have not been enforced by the Alaska Bureau of Wildlife Enforcement because the impact of such harvesting was negligible. However, in a well-publicized incident in April 2006, citations were issued to seaweed gatherers in Seward due to excessive harvests that had caused damage to kelp beds. This harvest occurred in an area readily accessible by road, and could remain prohibited if the Board only allows noncommercial harvesting of aquatic plants in less accessible areas, such as those outside the nonsubsistence areas already defined in regulation (5 AAC 99.015). The April 2006 enforcement action highlighted the lack of authorizing regulations, except in Southeastern Alaska, for the small-scale noncommercial harvests of aquatic plants that continue to occur in the more remote communities outside the nonsubsistence areas.

If the Board chooses to schedule a discussion of this topic, the Department will provide information on historic and current noncommercial uses of aquatic plants in communities outside the nonsubsistence areas in the form of a customary and traditional use worksheet.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW.** If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

**1) Fishery Conservation purpose or reason:** Not applicable.

**Or 2) Correct an error in regulation:** Not applicable.

**Or 3) Correct an unforeseen effect of a regulation:** There has been no Board of Fisheries discussion of noncommercial uses of aquatic plants in any area of the state other than the Southeastern Area. Therefore, noncommercial harvesting of aquatic plants in most of the state is closed unless opened by emergency order, and all harvesters are required to obtain a permit even for harvesting small amounts of aquatic plants for home use and sharing. This is likely an oversight, and not a deliberate restriction on traditional uses, due to the lack of management issues related to aquatic plants outside the nonsubsistence areas. Also, because the board has no

authority to adopt preferential subsistence regulations for aquatic plants, Department of Law advises that all regulations governing the noncommercial harvest of aquatic plants should be placed in 5 AAC 37 and that 5 AAC 01.713 and 5 AAC 01.745(d) be repealed. The proposed change to 5 AAC 37 will effectively subsume those regulations.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** All Alaskans may participate in the taking of fish, wildlife, and aquatic plant resources for noncommercial uses. We do not foresee any increases in noncommercial harvests outside the nonsubsistence areas resulting from adoption of the proposed regulation that would require reallocation of aquatic plant resources.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Non allocative.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 37.100. Permits. A processor, buyer, harvester of aquatic plants, aquatic plant farmer operating under a permit authorized by AS 16.40.100, or a person intending to collect and supply wild stock to such an aquatic farm must obtain a harvest permit issued by the commissioner, or the commissioner's authorized representative, before operating, **except that a permit is not required for the harvesting of aquatic plants for noncommercial uses outside the nonsubsistence areas as defined in 5 AAC 99.015.** The permit must include the following provisions: (see 5AAC 37.100 (1) through (5)).

5 AAC 37.200. Seasons. The opening and closing dates of harvesting of aquatic plants will be made by emergency order, **except that there is no closed season for the noncommercial harvesting of aquatic plants outside the nonsubsistence areas as defined in 5 AAC 99.015.**

5 AAC 01.713. Subsistence use of aquatic plants in Southeastern Alaska Area. **Repealed XX/XX/XX.**

5 AAC 01.745(d). **Repealed XX/XX/XX.**

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** If this ACR is accepted during the October Board of Fisheries work session, it can be discussed and acted upon at the regularly scheduled Board of Fisheries meeting in March 2007 on Statewide Finfish and Supplemental Issues. Otherwise, consideration will be delayed until each regularly scheduled area regulatory meeting over the three-year meeting cycle. This would further prolong the lack of opportunity in most of the state to engage in noncommercial harvests of aquatic plants.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g. commercial fisherman, subsistence user, sport fishermen, etc).** The Alaska Department of Fish and Game manages the state's fisheries, including aquatic plants, and provides the Alaska Board of Fisheries with information about noncommercial and customary and traditional uses of fish stocks and aquatic plants.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** There has not been prior consideration of this request.

**Submitted By:** Alaska Department of Fish and Game

**AGENDA CHANGE REQUEST NUMBER: 5.**

**PRESENT SITUATION:** Throughout much of coastal rural Alaska, small amounts of aquatic plants are traditionally taken for home use. However, except in the Southeastern Area, under 5 AAC 37.100 and 5 AAC 37.200, the noncommercial harvesting of aquatic plants is closed unless opened by emergency order and a permit is obtained from the department.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** 5 AAC 37.100 and 5 AAC 37.200 would be amended to allow year-round noncommercial harvesting of aquatic plants and eliminate the permit requirement in those areas of the state outside the nonsubsistence areas defined in 5 AAC 99.015. Also, because the board has no authority to adopt preferential subsistence regulations for aquatic plants, the Department of Law advises that all regulations governing the noncommercial harvest of aquatic plants be placed in 5 AAC 37 and that 5 AAC 01.713 and 5 AAC 01.745(d), pertaining to subsistence harvesting of aquatic plants in the Southeastern Area, be repealed. The proposed change to 5 AAC 37 will effectively subsume those regulations and the current noncommercial harvest opportunities in the Southeastern Area will not be restricted.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes. The present closed season and permit requirement for noncommercial harvesting of aquatic plants under 5 AAC 37 are likely not deliberate restrictions on traditional uses, but more likely an oversight due to the lack of management issues related to aquatic plants outside the nonsubsistence areas.

**ADDITIONAL INFORMATION:** Under the proposed change, noncommercial harvests of aquatic plants within the nonsubsistence areas defined in 5 AAC 99.015 would remain closed unless opened by emergency order, and a permit would continue to be required. Because of the accessibility by road of aquatic plants to large populations, an unregulated harvest is not advisable.

If this proposal is adopted, the department has concerns about a potential harvest of aquatic plants beyond sustainable levels in areas outside the nonsubsistence areas that are reasonably accessible to the road system by boat, such as portions of Kachemak Bay in Lower Cook Inlet. If the Board chooses to address this proposal, the department will be prepared to discuss regulatory options for these areas.

**PROPOSED BY:** Alaska Department of Fish and Game

**ACR #20**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

AS16.05.920 contains a general prohibition on harvesting aquatic plants unless the person has a permit or the harvest is otherwise authorized in statute or regulations. There is a history of a subsistence harvest of aquatic plants in Prince William Sound region but currently no regulations allowing it.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Currently there are no regulations allowing individuals to currently harvest aquatic plants for subsistence use, but there is a history of Aquatic plant harvest and an interest in continuing to do so in the PWS region.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** No harvest is currently allowed so this ACR can not be allocative.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** Various sections of 5 AAC 01.xxx

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Aquatic plants do not fall under any of the categories discussed during the regular cycle, therefore it is not scheduled to come up at any future meetings.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Subsistence user.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Similar ACR's are up for consideration during the October work session.

**Submitted By:** Kate Alexander

**AGENDA CHANGE REQUEST NUMBER: 20.**

**PRESENT SITUATION:** Under 5 AAC 37.100 and 5 AAC 37.200, the noncommercial harvesting of aquatic plants in the Prince William Sound Area is closed unless opened by emergency order and a permit is obtained from the department.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Under this proposed change, 5 AAC 01 would be amended to find a year-round use of aquatic plants for subsistence purposes in the Prince William Sound Area. 5 AAC 01.645 would be amended to establish that there are no daily bag or possession limits for aquatic plants taken for subsistence purposes, other than herring spawn kelp, in the Prince William Sound Area.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes. The present closed season and permit requirement for noncommercial harvesting of aquatic plants in the Prince William Sound Area under 5 AAC 37 are likely not deliberate restrictions on traditional uses, but more likely an oversight due to the lack of management issues related to aquatic plants outside the nonsubsistence areas.

**ADDITIONAL INFORMATION:** Under **Agenda Change Request 5**, submitted by the Alaska Department of Fish and Game, 5 AAC 37.100 and 5 AAC 37.200 would be amended to allow year-round noncommercial harvesting of aquatic plants and eliminate the permit requirement in those areas of the state outside the nonsubsistence areas defined in 5 AAC 99.015. The Prince William Sound Area, except that portion within the Valdez city limits, is outside the nonsubsistence areas. Also, because the board has no authority to adopt preferential subsistence regulations for aquatic plants, the Department of Law advises that all regulations governing the noncommercial harvest of aquatic plants be placed in 5 AAC 37.

**PROPOSED BY:** Kate Alexander

## **ACR #25**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

In 2005 the BOF adopted a proposal that allowed vessels participating in the Kodiak area state pacific cod fishery to retain 2500 lbs. per trip of black rockfish as an incidental harvest. The department's ability to track vessels and effort has been compromised by allowing this incidental fishery. The result is GHL overages in the Northeast and Eastern sections and a premature closure in the Southeast section, possibly due to over harvest concerns. In addition, because area registration was not required for this incidental harvest, vessels were allowed to fish in super-exclusive and non-exclusive areas in the same calendar year which is in violation of 5 ACC 28.020 (4) (A) and 5 AAC 28.020 (4)(B).

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Ask that the BOF amend the Kodiak area black rockfish management plan, to apply the incidental harvest only to specific black rockfish sections that have not attained 70% of the GHL in the preceding two years.

Ask that the board of Fisheries amend 5 AAC 28.472, to include the following language:

(C) In the Kodiak area in a commercial ground fishery, other than a directed black rockfish fishery, a vessel operator using mechanical jigging machines, or hand troll gear may not retain black rockfish as bycatch in an amount that is greater than five percent of the gross round weight of all groundfish species taken in directed fisheries that has attained more than seventy percent of that section's guideline harvest level in the preceding two years.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Ask that the board of Fisheries amend 5 AAC 28.406, to include the following language:

(f) In the Kodiak Area, before a person uses mechanical jigging machines or hand troll gear in a commercial groundfish fishery, other than a directed black rockfish fishery, and retains black rockfish as bycatch that is greater than five percent of the gross round weight of all groundfish species taken in directed fisheries that are on board the vessel, the vessel owner or owner's agents shall register the vessel for the Kodiak area black rockfish fishery. A vessel validly registered in the Kodiak area black rockfish fishery may not be used in a directed black rockfish fishery in any super-exclusive registration area in the same calendar year, in accordance with 5 AAC 28.020 (4) (A) and 5 AAC 28.020 (4) (B).

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This ACR only concerns the Kodiak area black rockfish management plan, therefore it is a non-allocative issue.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 28.406 and 5 AAC 28.472

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Vessel operators participating in the Kodiak area directed black rockfish fishery were unfairly impacted by vessels that retained black rockfish during the Kodiak area state water pacific cod fishery under an incidental harvest strategy, then participated in a directed black rockfish fishery in a super-exclusive registration area.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Commercial fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not to my knowledge.

**Submitted By:** Leonard R. Carpenter

**AGENDA CHANGE REQUEST NUMBER: 25.**

**PRESENT SITUATION:** The Kodiak black rockfish fishery is managed by section. There are seven sections, each with a guideline harvest level. Fishermen may take black rockfish in one of three ways. In a directed black rockfish fishery where vessel operators are required to register for black rockfish and the 5-day trip limit is 5,000 pounds; secondly, vessel operators may harvest black rockfish as an incidental harvest fishery where vessel operators registered for a groundfish fishery, other than the black rockfish fishery, are allowed to register to retain up to 2,500 pounds of black rockfish in a 5-day period; and third, a vessel operator may retain, without registering, up to five percent black rockfish by weight of their directed fishery harvest as bycatch.

Once a vessel registers for the directed black rockfish fishery in the nonexclusive Kodiak Management Area, the vessel is excluded from registering for the black rockfish fishery in the superexclusive Chignik Management Area. The department has allowed vessels that register for the incidental harvest fishery in the Kodiak Area to register for the directed black rockfish fishery in the Chignik Area.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR proposes to allow the Kodiak Area incidental black rockfish fishery to only be implemented when harvest in a specific management section of the Kodiak District was less than 70 percent of the GHF in the prior two seasons.

This ACR also requests that any vessel participating in the incidental black rockfish fishery in the Kodiak Area be subject to exclusive and superexclusive registration restrictions in other management areas.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Regarding the incidental black rockfish fishery, the ACR does not address an effect of a regulation on a fishery that was unforeseen when the regulation was adopted. Regarding the superexclusive registration, when the regulation was adopted by the Board of Fisheries the affect of vessels fishing the incidental black rockfish fishery in the Kodiak Area and the directed superexclusive fishery in the Chignik Area was not specifically discussed.

**ADDITIONAL INFORMATION:** The Kodiak Area trip limit of 5,000 pounds in 5-days was introduced in 2003 to slow down the fishery. In 2003, the fleet harvested 46 percent of the area GHF and in 2004 the fleet harvested 66 percent of the total area GHF. The incidental harvest regulation (2,500 pound incidental harvest limit in 5-days) was adopted by the Board of Fisheries in 2005. The incidental black rockfish fishery was designed to help the fleet harvest more black rockfish. Because this incidental fishery is not a directed fishery, vessels have been allowed to fish for black rockfish in both the Kodiak Area and the Chignik Area.

Utilizing the directed and incidental black rockfish fisheries, the department has had reasonable success in managing the Kodiak black rockfish fishery. Of the seven sections utilized for black rockfish management in the Kodiak Area, three sections have achieved less than 70 percent of the GHL in the last two seasons. In the Chignik Management Area the overall area black rockfish GHL has not been achieved in 2005 or thus far in 2006; however, specific sections of the Chignik Area have closed due to attainment of the section GHL.

**PROPOSED BY:** Leonard Carpenter

**ACR #26**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

The jig sector in the Kodiak area state water pacific cod fishery was never expected to fully harvest their portion of the GHL, in an effort to fully gain that GHL, a Sept. 1<sup>st</sup>. roll-over date was set that opens any remaining jig GHL, to all legal gear (pot gear). This is unfair because it permits access to remaining jig GHL by the pot sector, but does not allow access to any remaining pot GHL by the jig sector. We ask that the BOF amend 5 AAC 28.467, paragraph (c), subsection (1), to include the following language:

- (1) for mechanical jigging machines and hand troll gear, when 50 percent of the guideline harvest level is taken by mechanical jigging gear and hand troll gear on December 31, whichever occurs first;
- (2) if 50 percent of the guideline harvest level is not taken by pot gear before September 1, the commissioner shall close, by emergency order, the fishing season and immediately reopen a fishing season during which all legal gear may be used, and shall close, by emergency order, the season on December 31 or when the guideline harvest level is reached. Whichever occurs first;

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** If the remaining pot GHL after Sept 1<sup>st</sup> is small (582,000 lbs in 2005 and 325,000 lbs in 2006), in season management may be impossible resulting in a failure to reopen the fishery amid over harvest concerns. Adding jig gear will provide means to harvest remainder without exceeding GHL.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** The Kodiak Area Management Plan already mandates a 50/50 split of the GHL: between pot and jig gear.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 ACC 28.467 (C) (1)

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Jig gear users may lose economic opportunity to participate in any fall pacific cod fishery if the Federal "B" season closes and the state waters pacific cod fishery

reopens only to pot gear. In contrast if any jig GHL is left after September 1, it becomes available to pot gear.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Commercial jig gear fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No it has not.

**Submitted By:** Leonard R. Carpenter

**AGENDA CHANGE REQUEST NUMBER: 26.**

**PRESENT SITUATION:** The Kodiak Area state-waters Pacific cod fishery guideline harvest level (GHL) is annually allocated 50 percent to pot gear and 50 percent to jig gear. The management plan, 5 AAC 28.467 (c)(2), provides a rollover provision on September 1, of unharvested jig allocation to both pot and jig gear. There is no rollover provision from unharvested pot allocation to both pot and jig gear.

The pot fishery has high harvest potential and the department has recently managed the pot fishery from daily on-grounds fishery data to avoid exceeding the pot fishery GHL. This inseason management has resulted in the pot-fishery harvest falling short of the pot-fishery guideline harvest level.

Depending upon the amount of the pot fishery GHL remaining on September 1, and the level of projected pot-vessel effort, the department could reopen the fishery for a pot-gear season beginning September 1. If the jig GHL had been achieved earlier in the season then jig vessels could not participate in a fall opening beginning September 1, because there is no rollover provision from pot to jig gear. If the amount of the pot fishery quota was less than what the department could manage inseason, then the department may forego the harvest opportunity to avoid an overharvest situation.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Provide a rollover provision of unharvested pot allocation.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** During the 2005 state-waters Pacific cod fishery the pot fishery GHL was 4.56 million pounds. The pot-fleet harvest was 3.98 million pounds. The parallel state-waters Pacific cod fishery opened on September 1, and never closed because of the federal harvest level was not achieved. Therefore the state-waters fishery did not reopen for the remaining 0.58 million pounds. The jig fishery attained the jig allocation in 2005.

During the 2006 state-waters Pacific cod fishery the pot fishery GHL was 5.21 million pounds. The pot-fleet harvest was 4.88 million pounds. The jig fishery is unlikely to harvest the jig quota in 2006. The parallel state-waters Pacific cod fishery opened on September 1. If the parallel fishery closes the state-waters fishery will reopen. At that time the jig allocation will be available to both jig and pot fishermen. In addition, the pot fleet can continue harvesting toward their remaining pot allocation.

**PROPOSED BY:** Leonard Carpenter

**ACR #23**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

This past year when crab rationalization was implemented, the Aleutian Islands golden king crab fishery in the eastern and western areas experienced problems with the biodegradable twine. With increased soak times under rationalization and strong currents where this fishery takes place, the twine is degrading in some cases even before the pot is pulled. It is necessary to replace the twine each time pots are pulled, causing extra work for the crew and expense for the vessel. Under a slower-paced fishery with quota shares, this has become a problem for the harvesters.

Based on a regulatory decision for a 30 day release mechanism, discussions are on going with ADF&G in regard to studying the effect of various sizes of twine in this fishery. It is anticipated that the study will have been conducted and results available for board deliberation at the spring 2007 meeting.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Now that crab rationalization is in place, the biodegradable twine regulation does not work for increased soak times in the Aleutian Islands golden crab fishery.

**or 3) correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This ACR is not allocative.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 ACC 39.145(1)

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The statewide shellfish issues are not scheduled for review by the Board of Fisheries until the 2007/2008 cycle. A years' delay will only result in increased cost to the harvesters.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user**

**sport fisherman, etc.).** I represent Aleutian Islands golden king crab fishermen who hold quota share.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not to my knowledge.

**Submitted By:** Linda Kozak

**AGENDA CHANGE REQUEST NUMBER: 23.**

**PRESENT SITUATION:** Statewide regulation requires that king crab pots must have an 18 inch biodegradable escape panel composed of 100 percent cotton, 30-thread twine, located within six inches of the bottom of the pot. The breakdown of this panel is designed to reduce crab mortality from ghost fishing by creating an opening in the pot web. This opening allows for the release of crab from lost pots and releases crab from pots that are unattended for long periods of time.

Aleutian Islands golden king crabs are fished in waters approximately 150 to 300 fathoms in depth. Because of the strong currents and high relief bathymetry in the Aleutian Islands, the pots must be longlined.

Prior to crab rationalization the Aleutian Islands golden king crab fishery was open year-round, however the season was typically conducted during August-September in the eastern Aleutian Islands and from August-March in the western Aleutian Islands. With crab rationalization, the regulatory season is from August 15 until May 15. During the first year of crab rationalization the actual fishery extended from August 15 until February 28 in the eastern area, and from August 15 until March 28 in the western area. During the ten years leading up to rationalization, vessel operators deployed, on average, 648 pots in the eastern area and 743 pots in the western area. During the first rationalized golden king crab fishery vessel operators deployed, on average, 1,262 pots in the eastern area and 1,600 pots in the western area.

Several participants in the Aleutian Islands golden king crab fishery have reported breakage of the biodegradable panel when pots are pulled. Anecdotal information gathered from onboard observers indicates that fishers who pull their gear frequently and regularly change the cotton twine have little or no problem with twine breakage. Vessel operators who utilize long soak times, or who do not change the cotton twine at regular intervals may encounter an increased frequency of degraded escape panels.

According to 5 AAC 39.675 Crab Pot Gear Storage for Bering Sea/Aleutian Islands IFQ, CDQ, and Adak Community Allocation Crab Fisheries, all gear in a rationalized fishery must be removed from the water or placed in long-term storage if left unattended in a registration area for longer than 14 days. Before a vessel is absent from the registration area for more than 14 days, the crab pot gear belonging to that vessel must be removed from the water or placed in long-term storage.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** To examine the biodegradable escape mechanism requirement for the Aleutian Islands golden king crab fishery.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** Because the race-for-fish has ended with the implementation of crab rationalization, vessel operators may fish at their own pace to harvest their IFQ. This has led to an increase in the average soak time from the non-rationalized to the rationalized fishery. Crab observer data indicates that Aleutian Islands golden king crab pot soak time varies considerably among participants, and for some, the average pot soak time varies considerably over the course of the fishing season. Some vessel operators had an average soak time during the 2005/06 golden king crab fishery of greater than 45 days.

The average soak time for the eastern Aleutian Islands fishery during the 2004/05 season was 88.2 hrs (3.7 days) and for the first rationalized fishery beginning in 2005/06 was 340.3 hrs. (14.2 days). For the 2004/05 western Aleutian Islands fishery the average soak time was 279 hrs. (11.6 days) and for the rationalized fishery in 2005/06 the average soak time was 560.0 hours (23 days). The department does not have information to provide the Board on the average degradation time for 100% cotton 30 thread twine in the Aleutian Islands golden king crab fishery.

During the 2005/06 season, several vessel operators left baited pots at fishing depth for several weeks over the Christmas holiday. This extended soak may have contributed to breakage of some of the biodegradable twine when pots were retrieved after the holiday.

By regulation, vessel operators should not leave gear unattended for greater than 14-days, however this regulation is very difficult to enforce. Under crab rationalization the department was concerned with unattended fishing gear for long time periods.

Based on information collected from onboard observers, vessel operators who only pull their gear infrequently should change their biodegradable twine each time the pot is retrieved. If the vessel crew does not change the biodegradable twine each time the pots are retrieved, then it is likely that the biodegradable twine could decay.

**PROPOSED BY:** Linda Kozak

**ACR # 7**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

There has been an increase in applications to ship live fish out of Alaska. The department feels that a statewide regulation is necessary in order to provide staff with the necessary guidelines to determine whether or not a species should be allowed to be shipped live out of Alaska. In addition it is necessary to put into regulation when and where the fish ticket on live shipments would be filled out and who was responsible for the fish ticket.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

**1. Fishery conservation purpose or reason:** Yes, the department feels it necessary for the management of certain species and for control of the fish ticket process.

**or 2) Correct an error in regulation:** Not Applicable.

**or 3) correct an unforeseen effect of a regulation:** Not Applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This proposal has no allocative aspects.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** This would create a new regulation.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The level of interest was not known at the time of proposal deadline consequently this agenda change request is necessary to meet the board's regulatory cycle.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Management concerns.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No, not as a statewide proposal.

**Submitted By:** Alaska Department of Fish and Game

**AGENDA CHANGE REQUEST NUMBER: 7.**

**PRESENT SITUATION:** There has been an increase in applications to ship live fish out of Alaska. The department feels that a statewide regulation is necessary in order to provide staff with the necessary guidelines to determine whether or not a species should be allowed to be shipped live out of Alaska. In addition it is necessary to put into regulation when and where the fish ticket on live shipments would be filled out and who was responsible for the fish ticket.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Allow the board to create a new regulation with the necessary guidelines if a live fish is to be shipped out of state.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** Yes, the department feels it necessary for the management of certain species and for control and accuracy of the fish ticket process.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**ADDITIONAL INFORMATION:** The level of interest was not known at the time of proposal deadline consequently this agenda change request is necessary to meet the board's regulatory cycle.

**PROPOSED BY:** Alaska Department of Fish and Game

**ACR # 8**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.**

Create a statewide permit for allowing the use of net pens. Current interest in this processing method is increasing. A statewide regulation would give management staff the option to permit net pens in appropriate areas as a way to further enhance salmon marketability.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

1. **Fishery conservation purpose or reason:** Not applicable.

or 2) **Correct an error in regulation:** Not applicable.

or 3) **correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This proposal has no allocative aspects.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** This would create a new regulation.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The level of interest was not known at the time of proposal deadline consequently this agenda change request is necessary to meet the board's regulatory cycle.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Management concerns.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No not as a statewide proposal.

**Submitted By:** Alaska Department of Fish and Game

**AGENDA CHANGE REQUEST NUMBER: 8.**

**PRESENT SITUATION:** Current interest in this processing method is increasing. The board has allowed net pens to be used in several areas. A statewide regulation would give management staff the option to permit net pens in appropriate areas as a way to further enhance salmon marketability.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Create a statewide permit for allowing the use of net pens.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes, this regulation should have been statewide.

**ADDITIONAL INFORMATION:** Because net pens have been allowed in several regions of the state the department felt that the board should consider this statewide, consequently this agenda change request is necessary to meet the board's regulatory cycle.

**PROPOSED BY:** Alaska Department of Fish and Game