

ALASKA DEPARTMENT OF FISH AND GAME

Staff Comments on Agenda Change Requests

Board of Fisheries Work Session

Anchorage, Alaska

October 1 – October 3, 2003



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 1 – 3, 2003, 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 2003-2004 agenda change requests are included in this booklet for informational purposes. They are found directly behind the staff comment page discussing the ACR.

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AGENDA CHANGE REQUEST: #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. The department has submitted proposal 107 for consideration at the January 2004 AYK Board of Fisheries meeting. This proposal requests that the board consider a regional AYK Stocked Waters Management Plan which is intended to set bag, possession, size limits and seasons for the regions' stocked waters fisheries. The problem is that the Upper Copper/Upper Susitna Management Area (UCUSMA) would be excluded from discussion, because these fisheries were covered during the 2002/2003 board cycle.

Since this management plan is regional in scope, the department requests that the Board of Fisheries allow the stocked waters fisheries within the Upper Copper/Upper Susitna Management area to be included in discussions regarding proposal 107 at the January 2004 Board of Fisheries meeting.

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: If proposal 107 were adopted without the UCUSMA included, it would fragment the regional management plan. Acceptance of this ACR will allow the board to consider the entire region when addressing proposal 107.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE. The proposed management plan this ACR addresses establishes management guidelines to provide for diverse fishing opportunities for Region III stocked lakes based on the biological characteristics of the lake and the desires of the anglers. These guidelines are intended to reduce and or diminish allocative situations.

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 70.XXX. Stocked Waters Management Plan for the Arctic-Yukon-Kuskokwim Area and 5 AAC 52.XXX. Stocked Waters Management Plan for the Upper Copper/Upper Susitna Area.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Submitting a proposal at the next Copper River/Prince William Sound board meeting in 2005 to address the regional management plan would result in a

duplicative process that would delay implementation of this regional regulation in this management area for two years. Because this ACR addresses a proposed management plan for an entire region, all management areas within that region should be evaluated simultaneously.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). The department manages the stocked waters fisheries with the AYK region.

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 is in response to a department submitted proposal for the 2003/2004 board cycle and has not been considered before.

Submitted By: Alaska Department of Fish and Game

AGENDA CHANGE REQUEST: #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. The department has submitted proposal 109 for consideration at the January 2004 AYK Board of Fisheries meeting. This proposal requests that the board consider a regional AYK Arctic Grayling Management Plan which is intended to address bag, possession, and size limits for the regions' Arctic grayling fisheries. The problem is that the Upper Copper/Upper Susitna Management Area (UCUSMA) would be excluded from discussion, because these fisheries were covered during the 2002/2003 board cycle.

Since this management plan is regional in scope, the department requests that the Board of Fisheries allow the grayling fisheries within the Upper Copper/Upper Susitna Management area to be included in discussions regarding proposal 109 at the January 2004 Board of Fisheries meeting.

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: If proposal 109 were adopted without the UCUSMA included, it would fragment the regional management plan. Acceptance of this ACR will allow the board to consider the entire region when addressing this proposal.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE. The proposed management plan this ACR addresses establishes management guidelines to provide for diverse fishing opportunities for Region III Arctic grayling fisheries based on criteria within proposal 109. These guidelines are intended to reduce and or diminish allocative situations.

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 70.XXX. Arctic Grayling Management Plan for the Arctic-Yukon-Kuskokwim Area and 5 AAC 52.XXX. Arctic Grayling Management Plan for the Upper Copper/Upper Susitna Area.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Submitting a proposal at the next Copper River/Prince William Sound board meeting in 2005 to address the regional management plan would result in a duplicative process that would delay implementation of this regional regulation in this

management area for two years. Because this ACR addresses a proposed management plan for an entire region, all areas within that region should be evaluated simultaneously.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). The department manages the Arctic grayling fisheries within the AYK region.

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 is in response to a department submitted proposal for the 2003/2004 board cycle and has not been considered before.

Submitted By: Alaska Department of Fish and Game

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #23

PRESENT SITUATION: Current regulations (5 AAC 52.022 (1)) state that in all flowing waters, and in Paxson and Summit Lakes only unbaited, single-hook artificial lures may be used. This regulation was adopted by the Board of Fisheries in 1999 and was discussed and reconfirmed as being necessary by the Board during the 2003 board meeting.

WHAT THE PROPOSAL SEEKS TO CHANGE: That the current unbaited, single-hook artificial lure regulation be removed and use of bait be restored in this fishery.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No. This proposal is identical to a Department proposal addressed by the Board at the January 2003 meeting.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No. The potential impact this regulation might have on the Paxson and Summit lake burbot fisheries was discussed by the BOF at the 2003 meeting. The rebuilding status of the lake trout population was deemed to take precedence by the Board over a potential reduction in burbot harvest by not allowing bait.
4. Is this proposal predominately allocative in nature? No.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: The Departments lake trout stock status data from 2002 indicate that population abundance and size composition are similar to that collected during the early 1990's. Recreational harvests of lake trout have declined since 1990 owing to prohibition of setlines (1991) and instituting a 24" minimum size limit in 1994. The contemporary fishery appears to be operating as a recruit fishery, whereby most lake trout are harvested after attaining 24 inches in length. The Department is currently conducting stock status research that will be available at the October meeting.

PROPOSED BY: Paxson Fish and Game Advisory Committee

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. 1999 Board of Fisheries inadvertently restricted Paxson and Summit lakes to single hook, artificial lure only. Regulation was never printed; it was only in codified regulations. 2003 board was to correct this error, but did not; it was left on the books and printed this time. Lake trout and burbot population is increasing in these lakes. This regulation was presented as “housecleaning.” Public did not adequately get to comment. I have submitted comments from local lake users that were sent to me following our informational meeting at Paxson.

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: Public and advisory committees were told that this was “housecleaning” not a regulation change. This regulation was originally put in by accident and not implemented until now.

or 3) correct an unforeseen effect of a regulation: This regulation implemented by the board with the (desire to protect lake trout?) unintentionally restricts a viable interior burbot fishery.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: This regulation has nothing to do with allocation.

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 52.022. Remove provision that states: [ONLY UNBAITED, SINGLE HOOK, ARTIFICIAL LURES MAY BE USED].

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Regular cycle is two years away. We feel that this regulation as is will unnecessarily restrict the best winter lake trout and burbot fishery in the state. Paxson and Summit lakes are one of the only lakes in the state which have walking access to viable burbot populations.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Advisory committee chair--by request of the public.

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. I have submitted a copy of the regulation as it came before the Board of Fish.

Submitted By: Paxson Fish and Game Advisory Committee

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #3

PRESENT SITUATION: During its February, 2003 meeting in Ketchikan, the Board of Fisheries (BOF) changed the winter troll season and fishery closure date from April 14 to April 30. This change was made to provide additional opportunity to harvest the winter king salmon guideline harvest level (GHL) of 42,000 to 47,000 fish. Until the 2003 season, the GHL had never been harvested prior to the winter fishery closure date of April 14. The 2003 winter fishery closed on April 12 because the GHL had been harvested (50,810 kings were actually harvested). At the time of the closure, the new regulations implementing the April 30 closure date had not yet been codified so the department opened the spring fisheries in a manner consistent with existing regulations. The modified regulation for the winter troll season went into effect on July 26, 2003 at the time. Now that the modified regulation is in effect, it will not be possible to open spring troll fisheries until May 1. This would preclude harvest of primarily Alaska hatchery king salmon if the winter troll fishery closes before April 30.

WHAT THE PROPOSAL SEEKS TO CHANGE: ACR #3 seeks to change the opening date of the summer season and spring fisheries should the winter fishery close prior to April 30. The ACR proposes to create a “floating” spring fishery opening date between April 15 and April 30 whenever the winter fishery closes prior to April 30.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? Yes. The early closure of the 2003 winter fishery, prior to April 30 was unforeseen. The extension of the winter fishery closure date to April 30 (proposal #278) was done to increase winter troll harvest opportunities. Based on extensive discussions and Board actions during the February 2003 meeting (approval of proposal #282), the BOF supported increasing access to Alaska hatchery king salmon during the spring fisheries. It was not the intent of the BOF to delay the opening of the spring fisheries by up to two weeks should the winter fishery GHL be harvested prior to April 30.
4. Is this proposal predominately allocative in nature? No.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Alaska Trollers Association

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. Under some circumstances, current regulations may prevent normal conduct of the spring troll fisheries in late April.

There are two troll seasons by regulation -- winter (Oct. 1-Apr. 30) and summer (May 1-Sept. 30), but actually three distinct troll fisheries. Since the late 1980s, spring fisheries have been allowed from April 15 through June 30 under 5 AAC 29.090. The spring fishery has always been provided for under the summer season. Since the spring fisheries have been in effect, the winter season has been open until the summer season officially begins.

During the 2003 Board of Fisheries meeting the winter fishery closure date was changed from April 14 to April 30 and the summer opening to May 1. However, the winter troll fishery was closed on April 12, 2003 -- earlier than ever before. This event could have left the spring fishery in limbo.

The new regulations implementing the April 30 closure date had not yet been codified, so the department was able to open the spring fishery in April as it has in the past. However, should the winter fishery close early again, the new regulations will not allow the department to open the spring fisheries until May 1 when the summer season officially begins. This could result in a two-week gap between the winter and spring fisheries.

Spring openings were established to help trollers access Alaska hatchery chinook, which are not counted against the Pacific Salmon Treaty quota, and are being raised to mitigate past and ongoing losses under the Pacific Salmon Treaty. Alaska hatchery chinook return in the spring, so loss of any fishing time in April could have a detrimental impact on our ability to access these fish.

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: Applicable. During the February 2003 Board of Fisheries meeting, board members and trollers spent a considerable amount of time discussing and modifying regulations to help trollers access more Alaska hatchery chinook. The intent of the board to allow greater hatchery harvest seems very clear. This matter of opening dates is simply a matter of an unforeseen circumstance that needs to be corrected prior to next season.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE. This proposal is only based on the trollers' portion of the Pacific Salmon

Treaty quota and Alaska hatchery king, most of which are produced for the Southeast troll fleet and paid for by the regional aquaculture associations, which are owned by commercial fishermen. ATA is not requesting any modification to harvest sharing between trollers or other users.

The winter troll fishery is presently capped and the spring troll fisheries have specific rules in place to control the catch of non-Alaska hatchery fish that count against the Pacific Salmon Treaty quota.

By enacting ATA's agenda change request, there would be no significant change in allocation beyond the normal catch variation amongst the various troll fisheries, which occurs every year and is already anticipated by the board, the department, and the troll fleet. The department actively manages the troll fleet to stay within its seasonal allocation. This proposal would not change that process.

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 29.070. General fishing seasons and periods. (a) The seasons for the salmon troll fishery are the following: (1) Winter season from October 1 through April 30 [14] (A) If the GHL is harvested before April 30 the winter season ends the day the GHL is harvested, except that the winter season cannot end prior to April 14;

(2) summer season from [APRIL 15] May 1 through September 30 (A) per (a)(1)(A) of this section, the summer season may start on any date from April 15 through April 30.

(b) The department shall manage the chinook salmon troll fishery to provide for: (1) a winter fishery during the period beginning October 11 through April 30 [14] as specified in Sect. (a)(1)(A), and 5 AAC 29.080;

(2) spring fisheries during the period [BEGINNING APRIL 15 THROUGH JUNE 30] May 1 through June 30, as specified in 5 AAC 29.090 (A) per (a)(1)(A) of this section, spring fisheries during the period April 15 through June 30.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. The next regularly scheduled Board of Fisheries meeting in Southeast will be in 2006. With the new regulations now codified as law, it is possible that the troll fishery will be disrupted prior to the next Southeast board meeting. Closing the spring troll fisheries would be contrary to much of the work that was done by the board at the 2003 meeting to secure additional troll harvest in the spring, when ex-vessel prices are often higher.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). ATA is the representative gear group of the Alaska troll fleet.

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. The Board of Fisheries has never taken up this specific problem in any format at any meeting as it did not exist prior to the 2003 fishing season.

Submitted By: Alaska Trollers Association

STAFF COMMENTS ON AGENDA CHANGE REQUESTS: #5 and #7

PRESENT SITUATION: In January of 1997 the Board of Fisheries (BOF) considered Proposal 441 to allow sac roe purse seine permit holders in Sitka Sound the option of using floating frames to produce spawn-on-kelp in lieu of, or in addition to, purse seines to produce sac roe. The Board deferred action on the proposal and requested that the department conduct a spawn-on-kelp experimental test fishery. In January of 2000, the BOF deliberated Proposal 168 and then tabled it to a time certain (February 2000 meeting) pending development of fishery details by a board-appointed, spawn-on-kelp fishery task force. The task force ultimately failed to reach consensus. In February of 2000, the board considered and rejected the proposal because of the lack of consensus in the task force. After rejecting the proposal, the BOF instructed the proponents to first develop a public consensus and develop potential management options for the fishery before any future consideration by the BOF. During the January 2003 meeting, the BOF again considered but again rejected a similar proposal (# 157). At the present time no further details have been provided regarding this proposed fishery and there is no indication that a public consensus has been reached.

The Sitka Sound herring stock is expected to be above the 20,000-ton threshold allowing for a sac roe fishery in 2004.

WHAT THE PROPOSAL SEEKS TO CHANGE: The proposal seeks to reduce the harvest of herring for sac roe in favor of harvesting herring spawn-on-kelp.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No. There are regulations in place that specify a management plan, harvest threshold and harvest rate policy that are intended to protect the resource and provide for sustainable use.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? No. However public testimony before the BOF board in 1997, 2000, and 2003 did raise some potential allocative issues. For example, the existing closed pound permit holder group believes there may be market impacts on their product if there is a substantial increase in open pound product. In addition, some subsistence users have expressed concerns about competition for fishing sites in Sitka Sound. Finally, some limited entry seine sac roe permit holders do not favor reducing the GHF allocated for sac roe because it might diminish the basis for a competitive fishery.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: ACR 5 – Alan Otness
ACR 7 – Sitka Sound Spawn on Kelp Association

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. Herring in the Sitka Sound sac roe fishery are being unnecessarily killed under the current sac roe regulations. Allowing herring spawn-on-kelp (SOK) in open pounds as an alternative harvest method would greatly reduce the number of herring killed in order to harvest eggs.

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: SOK conserves the resource because no herring are killed in the harvest of their eggs.

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

or 3) correct an unforeseen effect of a regulation: The current regulations have the potential to take too many fish away from the biomass, but allowing SOK in Sitka Sound will minimize the impact on the biomass that was largely unforeseen.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE. This agenda change request is not allocative in nature. The harvest rights will remain with the 51 permit holders in Sitka. Allowing permit holders an alternative gear harvest method will strengthen the fishery in so many ways.

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. There are some regulations that may have to be amended or changed, e.g., 5 AAC 27.130, 5 AAC 27.187, and 5 AAC 27.190.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Time is of the essence. A three-year wait for the next board cycle is too long and the resource may experience stress unnecessarily before then.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Sitka herring roe permit holder and member of SSSOKA.

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 proposal has been heard at the past three board meetings. It was approved once, but the implementing regulations made it unworkable so it was scrapped. It narrowly failed last time.

Submitted By: Alan Otness

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. Herring in Sitka Sound are being unnecessarily killed under the current sac roe regulations. Allowing herring spawn-on-kelp (SOK) in open pounds as an alternative harvest method would greatly reduce the number of herring being unnecessarily killed in Sitka Sound.

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: SOK conserves the herring resource as no herring are being killed in this method of take. The herring eggs will still be taken but the herring will not be killed in the process allowing return spawning stock for following years. Not killing fish to harvest their eggs better conserves the herring resource in Sitka Sound.

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

or 3) correct an unforeseen effect of a regulation: The current regulation allows for the killing of a certain percentage of the herring resource. Under current regulation all age classes of the herring resource are targets. When the current regulations were put into place the SOK method was largely unheard of. It was unforeseen that the current regulation had potential for taking too many fish away from the biomass. Allowing SOK in Sitka Sound helps to correct and minimize impact on the herring resource that was unforeseen in the current regulations.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: The agenda change is not allocative in nature. This proposal does not shift use of the resource from one group to another. The department will still set a harvest guideline and the existing permit holders will harvest it. Allowing permit holders the option of SOK would not affect the opportunities of other permit holders to access the resource. If all parties retain equal access to the fish there is no allocation change from one party to another.

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. The following regulations that may have to be amended or changed are as follows: 5 AAC 27.130. Lawful Gear; 5 AAC 27.185. Management Plan for Herring Spawn on Kelp in Pounds; 5 AAC 27.187. Buyer and Processors Reporting Requirement for Spawn on Kelp in Pounds; 5 AAC 27.190. Herring Management Plan.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Time is of the essence. The board cycle is another three years

away and the Sitka quota has been in decline for the past few years. Why wait to act on something that would improve the condition of the fishery?

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). SSSOKA is an association comprised of: permit holders, boat owners, crew, tendermen, subsistence users, tribal members, and others currently directly involved in the Sitka Sound fishery.

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 proposal has been heard at the past three board meetings. It was approved once but the regulations put in place made it undesirable so it was scrapped. It narrowly failed last time. It should be considered, it is the right thing to do.

Submitted By: Sitka Sound Spawn on Kelp Association (SSSOKA)

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #22

PRESENT SITUATION: During the January 2003 Board of Fisheries (BOF) meeting in Sitka, the BOF adopted a proposal that authorized a commercial sac-roe herring fishery in portions Section 1-E and 1-F (West Behm Canal). Based on preliminary stock assessment information collected in the spring of 2003, it is likely that the West Behm Canal spawning stock of herring is above the 6,000 ton minimum spawning biomass threshold level and a gillnet sac-roe fishery will be allowed in the spring of 2004. The regulation adopted by the BOF allows sac roe fisheries by purse seine and gillnet user groups in alternating years with the gillnet fleet going first.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to overturn the BOF actions in January 2003 and close the West Behm Canal area to a commercial sac-roe fishery.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No. The initial stock assessment surveys done in the spring of 2003 forecast a return that will be over threshold in 2004. If the West Behm Canal herring stock is below the minimum threshold, no fishery will take place consistent with all other commercial herring fisheries in Southeast Alaska.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No. The Board was aware of the socioeconomic impact of a commercial sac roe fishery when it adopted the West Behm Canal Herring Sac-Roe Management Plan.
4. Is this proposal predominately allocative in nature? Yes. The proposal states that the Board has reallocated a fully-utilized resource.
5. Does the department have new information with respect to the allocative nature of this proposal? No. All of the aspects of this fishery were discussed in detail during the 2003 Sitka BOF meeting and subsequently at the Ketchikan meeting.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Ketchikan Area Herring Action Group

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. The state has reallocated a fully-utilized herring resource in West Behm Canal to commercial user groups.

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: The West Behm Canal herring stock has large fluctuations from year to year. There is currently intensive marine predation on this herring biomass.

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

or 3) correct an unforeseen effect of a regulation: There is substantial socioeconomic impact on the Ketchikan community that was not taken into account when making this regulation. Several user groups rely heavily on the Clover Pass/West Behm Canal area for economic and subsistence purposes. The herring fishery will have a substantial negative impact on the subsistence/personal use fishery, the sport fishery, the lodge owners, tour operators, Neets Bay Hatchery, and charterboat operators. Also if the growth of the West Behm Canal herring stocks is partially due to the migration of some of the Kah Shakes herring, then opening this fishery will delay the recovery of the Kah Shakes stocks.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: Not applicable.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Recent actions of the board have reallocated a fully-utilized resource. In addition to the user groups mentioned above the commercial user groups will also be adversely affected. Seiners, longliners, trollers, and gillnetters all rely on a healthy herring population to promote salmon and bottomfish stocks.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 27.190. Herring Management Plan for Southeastern Alaska Area.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. An imminent fishery opening has been scheduled prior to the next 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.). Group includes commercial and sport fishermen, subsistence and personal users, tourist industry reps, etc.

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. Never before considered.

Submitted By: Ketchikan Area Herring Action Group

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #21

PRESENT SITUATION: During the March, 2002 Board of Fisheries meeting, the Board charged the department and the Southeast Alaska King and Tanner Task Force (KTTF) to work together to develop a draft Tanner crab management plan for consideration by the Board during the next Statewide King and Tanner Crab Board meeting. One element of the Board's directive was to reduce fishing pressure in the most productive traditional 'core' Tanner crab fishing areas. To provide information on management options to distribute effort in the commercial Tanner crab fishery, during the 2002/03 Tanner crab fishing season the department closed core areas after 5 days and allowed an additional 5 days of fishing time in 'non-core' areas that have received little effort in recent years. It was necessary to close core Tanner crab fishing areas to both Tanner and golden king crab fishers because golden king and Tanner crab fishers could have had both species aboard and have gear for golden king crab in core areas. Thus, it would have been impossible for Fish and Wildlife Protection to assure that they were not retaining Tanner crab in the core fishing areas. While most golden king crab fishing grounds are not located in the core Tanner crab grounds, some are. A small number of golden king crab fishers had to move gear out of their traditional golden king crab fishing grounds during the Tanner crab core area closure period and then later compete to re-occupy these grounds, thereby these individuals incurred a significant economic hardship.

WHAT THE PROPOSAL SEEKS TO CHANGE: The proposal seeks to allow golden king crab fishers to continue fishing in areas closed to Tanner crab fishers.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No. No new regulations for the Southeast Tanner crab fishery were adopted at the 2002 Board of Fisheries meeting. The proposal would, however, correct unforeseen effects of an experimental core/non-core area management approach the department undertook during the 2002/03 commercial Tanner crab season in order to provide information in support of fulfilling the Board's charge to develop a new management plan for the fishery.
4. Is this proposal predominately allocative in nature? No.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: Another season of experimenting with this new management regime would be beneficial to better understand its effects before the next statewide King and Tanner Crab meeting. Under the status quo situation, although members of both fleets

wish to move forward with Tanner crab management plan development and the core/non-core approach provided additional fishing opportunity, it did create economic hardship for some crab fishers.

One regulatory solution would be language, perhaps with a sunset stipulation, stating that dually registered golden king and Tanner crab permit holders would be subject to the most restrictive time and area limits for the current season. This would allow permit holders with both golden king and Tanner crab fishing permits (K69) to unregister for Tanner crab if they wished to keep fishing golden king crab in core areas. They thus would not be able to retain any Tanner crab and the non-core fishing period would become enforceable.

PROPOSED BY: SE King and Tanner Crab Task Force

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. The Board of Fisheries charged the department and the Southeast Alaska King and Tanner Task Force (KTTF) to work together and develop a Tanner crab management plan for Southeast Alaska. When trying to develop a plan to reduce the pressure in core fishing areas for Tanner crab we came across difficulties in implementing the plan. In order to try the extended Tanner season in non-core areas, the core Tanner areas had to be closed for all golden king crab fishermen to make a solution that was enforceable by Fish and Wildlife Protection.

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: The Board of Fisheries at the 2002 statewide board meeting met on Southeast king and Tanner crab issues and gave the department and the KTTF a charge to work together to develop a Tanner crab management plan for the next board cycle, and allowed additional time to refine a management plan and associated regulations that will work to reduce fishing pressure in “core areas,” reduce handling of females and sublegal males, and develop the time and tools to allow for inseason management while maintaining the concurrent golden king crab season. Due to the nature of the concurrent Tanner and golden king crab fisheries, a regulation is necessary to provide the flexibility to try options that reduce pressure in the core fishing areas for Tanner crab and take in account the complexities of managing dual permit holders and permit holders registered or licensed for one fishery only.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: The intent of this regulation is to prevent decisions from becoming allocative. By adopting this new regulation we are trying to minimize the effects on golden king crab fishermen and Tanner crab fishermen. There is no allocation effect among commercial and sport, personal use and subsistence fishermen regarding this issue.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. We believe this request helps clarify and prevents this issue from becoming allocative.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. This will create a new subsection in 5 AAC 34.128 and 5 AAC 35.128 (Operation of gear) dealing with dual permit holders fishing concurrently.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. We need an opportunity to develop and discard options that do not

successfully work as part of a management plan or do not meet the objectives before submitting a Tanner crab management proposal to the Board of Fisheries as directed by the charge to the department and the KTTF.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Members of the King and Tanner Task Force formed as a working group to represent the permit holders of the fisheries.

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.

Submitted By: Southeast Alaska King and Tanner Task Force

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #4

PRESENT SITUATION: At the 2003 Board of Fish meeting in Cordova, the board changed 5 AAC 24.370 Prince William Sound Management and Allocation Plan in response to a proposal from purse seine fishermen. The threshold that serves as a trigger for the seine fleet to gain access to what had been gillnet hatchery production was raised from 25 percent to 40 percent of exvessel value. The second action was a discussion with staff which provided direction to the department concerning the extent of the additional purse seine opportunity.

Prior to this change, the Prince William Sound Aquaculture Corporation (PWSAC) structured its cost recovery plans by gear group. In this manner, gillnet-caught hatchery salmon cost recovery was taken from production intended for gillnet harvest and purse seine-caught hatchery salmon cost recovery was taken from production intended for purse seine harvest. Before the allocation plan was triggered to allow purse seiners access to Wally Noerenberg Hatchery (WNH) chum salmon, this cost recovery policy meant that each gear group paid for the fish they caught. If there was a cost recovery shortfall on a hatchery salmon stock, it might be made up at another hatchery that was producing fish for the same gear group (ie. cost recovery for gillnet-caught hatchery production may have been weighted more heavily at Main Bay than WNH or vice versa).

PWSAC changed the cost recovery policy so that cost recovery revenues from each species would pay for the costs of producing fish of that species, rather than the costs of production being allocated to the production intended for a particular gear type. In 2003, according to the provisions of the Prince William Sound Management and Allocation Plan, the purse seine fleet shared in the WNH chum salmon harvest. This is the first time that both gear groups shared a PWSAC hatchery stock. It is this sharing of the WNH chum salmon that prompted the change in PWSAC cost recovery policy. The change in policy meant that both gear groups would share in the cost recovery for WNH chums. PWSAC cost recovery at all other hatcheries remained unchanged.

WHAT THE PROPOSAL SEEKS TO CHANGE: It is somewhat unclear, but it appears the proposal is requesting the Board of Fisheries to exercise oversight of the PWSAC cost recovery plan. The ACR addresses PWSAC cost recovery practices but cites 5AAC 24.370 Prince William Sound Management and Allocation Plan as the regulation that will be changed. This regulation deals with the allocation of wild and enhanced salmon among drift gillnet, seine, and set gillnet commercial fisheries.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No. The proposal does not identify an unforeseen effect

occurring in a fishery as a result of a regulation adopted by the board. The problem the ACR seeks to address is a change in PWSAC cost recovery policy. The board did not take any regulatory action regarding the PSWAC cost recovery policy during its 2003 Prince William Sound meeting.

- 4 Is this proposal predominately allocative in nature? Yes, it appears the ACR seeks to increase the value of the purse seine harvest compared to the gillnet harvest value. This is allocative.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: The purse seine fleet and the drift gillnet fleet did fish during the 2003 season in the Esther Subdistrict according to the provision of the Prince William Sound Management and Allocation Plan, as amended by the board. The preliminary estimate of the chum salmon harvest taken by each gear group within the Coghill District, which includes the Esther Subdistrict, was: seiners: 748,580 fish or 51 percent; and gillnetters: 725,585 fish, or 49 percent.

The board may wish to seek the advice of the Department of Law concerning their powers and authorities to regulate the cost recovery plan for a private non-profit hatchery corporation.

PROPOSED BY: Law offices of Dan Coffey, representing seine fishermen in Prince William Sound.

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 Board of Fisheries regulation allocating wild and enhanced stocks of salmon in Prince William Sound (PWS) (5 AAC 24.370) has been voided by the cost recovery actions of the Prince William Sound Aquaculture Corporation (PWSAC) taken in 2003 after the board meeting where this regulation and proposals to amend this regulation were considered by the board. As a result, the harvest of the commercial harvest of salmon for the 2003 season was not in conformity with the board's regulation.

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: The regulation allocates wild and enhanced salmon available for harvest among seine, drift and set gillnet fishermen based on exvessel value (.370(a)). The regulation provides a mechanism to correct an imbalance of the harvest (.370(e)). The balancing mechanism was employed in 2003, but did not result in the intended consequence because of the actions of PWSAC in adopting its cost recovery plan.

In adopting the regulation allocating the commercial harvest between the three gear groups, the board recognized the need to "reduce conflicts among these users" (.370(a)). There are long standing gear conflicts in the PWS fisheries. The purpose of the board's regulation was, in part, intended to "reduce" these conflicts. What the board did not anticipate was that the gillnetters would use the aquaculture corporation's cost recovery plan to defeat the allocation provisions of the board's regulation.

It is crucial for the board to establish its primacy in the regulatory arena. The Board of Fisheries regulates the allocation of fish. The Board of PWSAC, dominated by one gear group, does not have any authority whatsoever to regulate the allocation of fish. Nevertheless, it is PWSAC's cost recovery system and not the regulation of the Board of Fisheries which allocates the harvest of fish in PWS. If this is allowed to stand, there is no role for the Board of Fisheries in the allocation of salmon in PWS.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: Even though this ACR deals with the PWS allocation regulation it is not predominately allocative. The ACR **does not ask** for a change in the existing allocation established by the regulation. Instead, the ACR asks for a change in the regulation which would result in the board's adopted allocation plan being complied with.

For several years, the harvest of commercial salmon by the different gear groups in PWS has not met the allocation requirements established by the board. As stated in the "purpose" section of

the regulation, "... the management and allocation plan contained in this section is to provide a fair and reasonable allocation of the harvest of wild and enhanced salmon among the drift gillnet, seine, and set gillnet commercial fisheries..." and "... to maintain the long-term historic balance between competing commercial users that has existing since statehood and before any significant production from enhancement programs."

This regulation specifically refers to the "significant production from enhancement programs." There is now "significant production" from the PWSAC operations in PWS. In fact, this enhanced production has substantially supplanted the wild stocks which used to predominate in the Sound.

In 2003, after the board meeting where regulations for PWS were considered, the new PWSAC cost recovery plan was adopted. Under this new plan provides that each gear group pays for the species it harvests. This cost recovery plan has further skewed the allocation between the gear groups.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. This ACR is not allocative: see discussion above.

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

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. This matter should not be delayed until the new regularly scheduled meeting on PWS. The PWSAC cost recovery plan was adopted immediately after the board's meeting on PWS. There were efforts by the seiners addressed to the commissioner's office to have the cost recovery plan rejected. These efforts failed. Thus, the seiners suffered the consequences of the PWSAC reallocation in 2003. If no action is taken now, there will be two more years where the board's regulation will continue to be voided by the aquaculture corporation which is controlled by the drift gillnetters. The economic cost to the seine fleet will be catastrophic.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). The individuals requesting the ACR are seine fishermen in Prince William Sound (see submitted list).

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. The subject matter of this ACR was heard during the course of the board's meeting on PWS in the last board cycle. Some action was taken by the board as a result. However, at the time, the PWSAC cost recovery plan was not adopted and was not before the board. Had that plan been before the board, the action taken by the board would probably have been significantly different.

Submitted to the record are the following documents which substantiate the facts set out in this ACR:

- 1) Findings of the Alaska Board of Fisheries (97-167 FB) made after the adoption of this regulation.
- 2) Commercial Salmon Fisheries Management Outlook-2003 (pages 1 and 2) prepared by the department.
- 3) A table setting out the historical value fisheries comparing the percentages earned by each fishery from 1997 through 2002 with a projection for 2003.
- 4) E-mail letter from Terry Bertson to Commissioner Duffy dated April 17, 2003 dealing with the board's existing regulation and PWSAC's new cost recovery plan along with attachments.
- 5) Letter from Commissioner Duffy dated May 5, 2003 responding to Terry Bertson on the issue of the board's regulation and PWSAC's new cost recovery plan.
- 6) E-mail letter from Terry Bertson dated May 7, 2003 to Commissioner Duffy responding to inaccuracies in the commissioner's earlier letter.

These materials are submitted both to substantiate the facts of this matter and to demonstrate that efforts have been made to resolve the matter at the department level before this ACR was filed. If the board fails to grant this ACR, another two fishing seasons will pass with similar results before this issue can again be addressed.

Submitted By: Law Offices of Dan K Coffey, representing seine fishermen in Prince William Sound

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #12

PRESENT SITUATION: The Cook Inlet Area, Kamishak District scallop fishery is managed by ADF&G under a federal FMP with guidance from the Alaska Board of Fisheries. Regulation 5 AAC 38.330 establishes a guideline harvest range (GHR) of 10,000 to 20,000 pounds of shucked meats from the Kamishak District scallop fishery. The department began conducting scallop stock assessment surveys of the Kamishak area as early as 1984, and has completed the surveys biennially since 1996. The bed that has been the traditional harvest area (northwest bed) yielded a biomass estimate of only 2.2 million lbs., round weight, of scallops in May 2003, down from a 9.3 million lbs. estimate in 2001. The first survey of a new southeast bed yielded a biomass estimate of 5.5 million lb, round weight, of scallops. Based on the drastic reduction in biomass on the northeast bed, the decision was made to limit harvest to the southeast bed for 2003. Applying the survey meat-weight to whole-weight proportion (6.78%) to the 5.5 million lb estimate for the southeast bed, the biomass represents approximately 373,400 lb of shucked scallop meat. Therefore, the upper end of the GHR represents a fishery harvest rate of 5.4%. The fact that there is no population trend information available from the one survey data point for this bed warrants a conservative management approach. Similarly, the department's use of a dredge catch-ability value of 1 provides an additional conservation measure due to the lack of dredge efficiency data for the Alaskan weathervane scallop fishery and the patchy distribution of scallops.

WHAT THE PROPOSAL SEEKS TO CHANGE: The proposal seeks to increase the current guideline harvest range above the current high end of the range, which is 20,000 lbs. of shucked meat.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No. At the time the regulation was adopted, the upper end of the GHR was believed to be the maximum harvest the Kamishak fishery could sustain over the long term.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No. The board understood that establishing an upper limit for the GHR would limit the harvest and that decision was based upon the best available information.
4. Is this proposal predominately allocative in nature? No.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: Since the Kamishak scallop fishery developed in the early 1980's, two periods of stock collapse have occurred. The first resulted in no landings from 1988

through 1992. The second occurred in 2001-2002 when the traditional (northwest) bed experienced a 77% decline due to unknown causes. Both events indicate the need for a precautionary approach to the Kamishak scallop stock. Because scallops are a relatively long-lived species, any harvest not taken in one year is available in subsequent years.

PROPOSED BY: Michele L. Gilmartin

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 guideline harvest range for the taking of scallops for the Kamishak District is 10,000 to 20,000 lbs. of shucked meat. The department assessed the Area H scallops in June 2003 and found a biomass of 5.5 million lbs. According to National Marine Fisheries Service guideline for national standard prevention of overfishing and achieving optimum yeild, the guideline harvest could be 41,250 lbs. of shucked meat.

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: The Kamishak District Area H scallop fishery regulations should reflect the NMFS national guideline standards. The department assessed the Kamishak district scallops in June 2003 and found a biomass of 5.5 million lbs. The GHL harvest of 20,000 lbs. stated above is way below the NMFS guidelines for national standard 1, prevention of overfishing and achieving optimum yield. The NMFS report providing technical guidance on the use of precautionary approaches and Amendment 6 to the scallop management plan established the overfishing control rule as $F=0.13$, where F is an instantaneous rate which corresponds to a 0.12 annual exploitation rate. So, the target annual exploitation rate should be <0.12 . Harvesting at a 0.10 rate (75% of the annual exploitation rate) would appear to satisfy the precautionary approach as established by the NMFS technical guidance on implementing national standard 1.

Harvesting the Kamishak District using an established (for the area) scallop meat recovery rate of 7.5% the precautionary exploitation rate of this area would be 5,500,000 lbs. times 10% exploitation rate times the meat recovery or when the math is done 41,250 lbs. of shucked meat.

The scallop survey dredge catch ability established by the department is set at one. That means that it catches 100% of what it is towed over. The 5.5 million lbs. stock estimate was calculated using that figure. Now if you look at national studies on the catch ability of a scallop dredge the actual figure is about 40% or 0.4. Using that figure the stock estimate would be 8.8 million lbs., or 66,000 lbs. of shucked meat.

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

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: This agenda change is not predominantly allocative. This change will benefit all participating in fishery.

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 38.330. Guideline harvest range for the taking of scallops in registration Area H.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. The recent June 2003 survey calculations show a precautionary exploitation rate of this area being 5,500,000 lbs. (41,250 lbs. of shucked meat). With the regular cycle occurring in 2005/2006, local fishermen from two to three vessels will be denied a biologically allowed resource harvest for the next couple years.

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 are a small Alaska-based company that participates in the Kamishak Bay fishery.

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. Has not been considered before.

Submitted By: Michele L. Gilmartin

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #11

PRESENT SITUATION: In 2002, two fishing groups, KPFA and UCIDA, filed suit in Kenai court challenging, among other things, restrictions to the department's emergency order (EO) authority put in regulation by the BOF. The Department of Law has advised ADF&G that the court upheld the Board's regulations with the EO restrictions, but ruled that the restrictions cannot be interpreted to prevent implementation of an EO contrary to a Board management plan when justified by new information.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to remove all limits on Emergency Order Authority and has provided a list of offending regulations.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? Yes, the regulations in question do allocate fishing opportunity for the commercial fleets. Removing the restrictions will increase opportunities for those fleets.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: United Cook Inlet Drift Association

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. Although the Board of Fisheries is granted wide ranging power to regulate the fishery under AS 16.05.251, the board cannot place limits on the legislature's delegation of authority to the commissioner (including issuing emergency orders). The Superior Court ruled that any board limitation on the commissioner's emergency order authority, no matter the circumstance, it is invalid (case no. 3KN-02-524CI).

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: Board regulations need to be changed to comply with ruling by the Superior Court (case no. 3KN-02-524CI).

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

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: The changes requested will be nonallocative, but are necessary to implement the rulings by the Superior Court.

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

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.310. Fishing seasons. (2)(B)(vi) for set gillnets in the Kasilof, Kenai, and East Forelands Sections, fishing is restricted to regular periods from August 1 through August 7, [EXCEPT FOR ONE ADDITIONAL PERIOD NOT TO EXCEED 24 HOURS TO BE OPENED BY EMERGENCY ORDER];

5 AAC 21.356. Cook Inlet Pink Salmon Management Plan. (c) The commercial pink salmon fishery will be managed as follows: (1) [THE COMMISSIONER WILL OPEN, BY EMERGENCY ORDER,] three fishing periods from 7:00 a.m. to 7:00 p.m., as follows:

5 AAC 21.357. Kenai River Coho Salmon Conservation Management Plan. (a)(3) from August 1 through August 7, the Kenai, Kasilof, and East Forelands Sections set gillnet fisheries are restricted to the regularly scheduled fishing periods as described in 5 AAC 21.320 [, EXCEPT THAT THE COMMISSIONER MAY OPEN, BY EMERGENCY ORDER, ONE ADDITIONAL FISHING PERIOD NOT TO EXCEED 24 HOURS].

5 AAC 21.358. Northern District Salmon Management Plan. (a) The purposes of this management plan are to minimize the harvest of coho salmon bound for the Northern District of

upper Cook Inlet and to provide the department direction for management of salmon stocks. The department shall manage the chum, pink, and sockeye salmon stocks for commercial uses in order to provide commercial fisherman with an economic yield from the harvest of these salmon resources based on abundance. The department shall also manage the chum, pink, and sockeye salmon stocks to minimize the harvest of Northern District coho salmon, in order to provide sport and guided sport fisherman with a reasonable opportunity to harvest these salmon resources over the entire run, as measured by the frequency of inriver restrictions, or as specified in this section and other management plans.

[(b) THE DEPARTMENT SHALL MANAGE THE NORTHERN DISTRICT COMMERCIAL SALMON FISHERIES BASED ON THE ABUNDANCE OF YENTNA RIVER SOCKEYE SALMON AND THE YENTNA RIVER ESCAPEMENT GOAL, OR OTHER SALMON ABUNDANCE INDICES AS IT DEEMS APPROPRIATE. ACHIEVEMENT OF THE LOWER END OF THE YENTNA RIVER ESCAPEMENT GOAL SHALL TAKE PRIORITY OVER NOT EXCEEDING THE UPPER END OF THE KENAI RIVER ESCAPEMENT GOAL.]

(c) From July 20 through July 31, if the department's assessment of abundance indicates that restrictions are necessary in order for the escapement goal to be met, the commissioner may, by emergency order, close the commercial set gillnet fishery or close the commercial set gillnet fishery and immediately reopen the season during which the number of set gillnets that may be used is limited to the following options selected at the discretion of the commissioner:

- (1) three set gillnets that are not more than 105 fathoms in aggregate length;
- (2) two set gillnets that are not more than 70 fathoms in aggregate length;
- (3) one set gillnet that is not more than 35 fathoms in length.

(d) In addition to the provisions specified in (b) and (c) of this section, the department shall manage the Northern District commercial salmon fisheries to minimize the incidental take of coho salmon stocks bound for the Northern District in the following manner:

[(1) ADDITIONAL FISHING PERIODS, OTHER THAN THE WEEKLY FISHING PERIODS DESCRIBED IN 5 AAC [21.320\(A\)](#) (1), MAY NOT BE PROVIDED WHEN COHO SALMON ARE EXPECTED TO BE THE MOST ABUNDANT SPECIES HARVESTED DURING THAT PERIOD; ADDITIONAL FISHING PERIODS MAY NOT BE PROVIDED BASED ON THE ABUNDANCE OF NORTHERN DISTRICT COHO SALMON;]

[(2) AFTER AUGUST 15, THE DEPARTMENT SHALL LIMIT THE HARVEST OF COHO SALMON IN THE NORTHERN DISTRICT BY LIMITING COMMERCIAL FISHING TIME TO THE WEEKLY FISHING PERIODS DESCRIBED IN 5 AAC [21.320\(A\)](#) (1);]

(3) after the last regular weekly fishing period in July through August 10, a person may not operate more than two set gillnets that are more than 70 fathoms in aggregate length.

(e) In the Central District commercial drift gillnet fishery, weekly fishing periods described in 5 AAC [21.320\(b\)](#) shall be restricted as follows:

[(1) FOR ONE REGULAR FISHING PERIOD DESIGNATED FROM JULY 9 THROUGH JULY 15, THE DEPARTMENT SHALL RESTRICT FISHING TO THE KENAI AND KASILOF SECTIONS OF THE UPPER SUBDISTRICT;]

[(2) EXCEPT AS PROVIDED IN (F) AND (G) OF THIS SECTION, THE DEPARTMENT SHALL RESTRICT FISHING FOR ONLY TWO CONSECUTIVE REGULAR FISHING PERIODS FROM JULY 16 THROUGH JULY 31, TO EITHER OR BOTH OF THE KENAI AND KASILOF SECTIONS OF THE UPPER SUBDISTRICT OR THAT PORTION OF THE CENTRAL DISTRICT SOUTH OF KALGIN ISLAND.]

[(f) DURING THE PERIODS RESTRICTED IN (E)(2) OF THIS SECTION, IF THE DEPARTMENT DETERMINES THAT THE ABUNDANCE OF THE TOTAL RUN STRENGTH OF THE KENAI RIVER LATE-RUN SOCKEYE SALMON RETURN IS GREATER THAN THREE MILLION FISH, THE DEPARTMENT MAY ALLOW A DRIFT GILLNET FISHERY FOR THE FIRST REGULAR WEEKLY FISHING PERIOD ON OR IMMEDIATELY BEFORE JULY 25 AND THE FIRST WEEKLY PERIOD AFTER JULY 25 IN THE WATERS OPENED UNDER (E)(2) OF THIS SECTION AND IN THE ADDITIONAL WATERS OF COOK INLET ENCLOSED BY A LINE FROM 60° 20.43' N. LAT., 151° 54.83' W. LONG, TO A POINT AT 60° 34.00' N. LAT., 151° 41.75' W. LONG., TO A POINT AT 60° 34.00' N. LAT., 151° 25.93' W. LONG., TO A POINT AT 60° 27.10' N. LAT., 151° 25.50' W. LONG, TO A POINT AT 60° 20.43' N. LAT., 151° 28.55' W. LONG. IF TWO CONSECUTIVE FISHING RESTRICTIONS HAVE ALREADY BEEN IMPLEMENTED DURING TWO OTHER REGULAR WEEKLY FISHING PERIODS FROM JULY 16 THROUGH JULY 31, NO FURTHER AREA RESTRICTIONS ARE NECESSARY DURING THE FIRST REGULAR WEEKLY PERIOD ON OR IMMEDIATELY BEFORE JULY 25 AND THE FIRST WEEKLY PERIOD AFTER JULY 25. DRIFT GILLNET FISHING IS AUTHORIZED IN THIS ADDITIONAL AREA ONLY IF THE DEPARTMENT DETERMINES THAT

- (1) SOCKEYE SALMON ESCAPEMENT GOALS ARE BEING MET IN THE KENAI, YENTNA, AND KASILOF RIVERS;
- (2) THE ABUNDANCE OF PINK SALMON AND CHUM SALMON STOCKS ARE SUFFICIENT TO WITHSTAND A COMMERCIAL HARVEST; AND
- (3) COHO SALMON STOCKS ARE SUFFICIENT TO WITHSTAND A COMMERCIAL HARVEST, AND THE COMMERCIAL HARVEST OF COHO SALMON WILL NOT PREVENT THE SPORT AND GUIDED SPORT FISHERMAN FROM HAVING A REASONABLE OPPORTUNITY TO HARVEST COHO SALMON OVER THE ENTIRE RUN, AS MEASURED BY THE FREQUENCY OF INRIVER RESTRICTIONS.

(g) IF AFTER JULY 20, THE DEPARTMENT DETERMINES THAT THE ABUNDANCE OF THE TOTAL RUN STRENGTH OF THE KENAI RIVER LATE-RUN SOCKEYE SALMON RETURN IS GREATER THAN FOUR MILLION FISH, THE COMMISSIONER MAY OPEN A DRIFT GILLNET FISHERY FOR THE FIRST REGULAR PERIOD AFTER JULY 25 IN THE AREA OF THE CENTRAL DISTRICT NORMALLY OPEN TO DRIFT GILLNET FISHING DURING REGULAR PERIODS, IF THE DEPARTMENT ALSO DETERMINES THAT

- (1) SOCKEYE SALMON ESCAPEMENT GOALS ARE BEING MET IN THE KENAI, YENTNA, AND KASILOF RIVERS;
- (2) THE ABUNDANCE OF PINK SALMON AND CHUM SALMON STOCKS ARE SUFFICIENT TO WITHSTAND A COMMERCIAL HARVEST; AND

(3) COHO SALMON STOCKS ARE SUFFICIENT TO WITHSTAND A COMMERCIAL HARVEST, AND THE COMMERCIAL HARVEST OF COHO SALMON WILL NOT PREVENT THE SPORT AND GUIDED SPORT FISHERMAN FROM HAVING A REASONABLE OPPORTUNITY TO HARVEST COHO SALMON OVER THE ENTIRE RUN, AS MEASURED BY THE FREQUENCY OF INRIVER RESTRICTIONS.]

(h) Personal use fishing with a set gillnet is prohibited in the Northern District.

[(i) THE BOARD OF FISHERIES (BOARD) RECOGNIZES THAT MAJOR CHUM SALMON STOCKS IN COOK INLET ARE CURRENTLY BELOW HISTORIC LEVELS. CHUM SALMON STOCKS IN THE UPPER COOK INLET AREA ARE BOUND PRIMARILY FOR THE NORTHERN DISTRICT AND ARE NOT HARVESTED TO AN APPRECIABLE DEGREE IN THE KENAI AND KASILOF SECTIONS OF THE UPPER SUBDISTRICT. TO EMPLOY A PRECAUTIONARY APPROACH TO CHUM SALMON MANAGEMENT, NO ADDITIONAL FISHING PERIODS SHALL BE PROVIDED TO THE DRIFT GILLNET FISHERY OUTSIDE THE KENAI AND KASILOF SECTIONS OF THE UPPER SUBDISTRICT, EXCEPT AS PROVIDED IN THIS MANAGEMENT PLAN.

(j) PINK SALMON STOCKS HARVESTED IN THE CENTRAL AND NORTHERN DISTRICTS ARE BOUND PRIMARILY FOR THE KENAI RIVER AND RIVER SYSTEMS IN THE NORTHERN DISTRICT, AND PINK SALMON RUN TIMING IS SIMILAR TO THAT OF COHO SALMON. TO MINIMIZE THE HARVEST OF COHO SALMON, A DIRECTED PINK SALMON FISHERY MAY ONLY OCCUR AS SPECIFIED IN 5 AAC [21.356](#).]

(k) The department shall, to the extent practicable, conduct habitat assessments on a schedule that conforms to the board's triennial meeting cycle. If the assessments demonstrate a net loss of riparian habitat caused by noncommercial fishermen, the department is requested to report those findings to the board and submit proposals to the board for appropriate modification of this management plan.

5 AAC 21.359. Kenai River Late-Run King Salmon Management Plan. [(e) CONSISTENT WITH THE PURPOSES OF THIS MANAGEMENT PLAN AND 5 AAC [21.360](#), IF THE PROJECTED INRIVER RETURN OF KING SALMON IS LESS THAN 40,000 FISH, THE DEPARTMENT MAY NOT REDUCE THE CLOSED WATERS AT THE MOUTH OF THE KENAI RIVER DESCRIBED IN 5 AAC [21.350\(B\)](#).]

5 AAC 21.360. Kenai River Late-Run Sockeye Salmon Management Plan. (c) Based on pre-season forecasts and in-season evaluations of the total Kenai River late-run sockeye salmon return during the fishing season, the run will be managed as follows:

(1) at run strengths of less than 2,000,000 sockeye salmon, the department shall manage for an inriver goal range of 600,000 - 850,000 sockeye salmon past the sonar counter at river mile 19 as follows:

(A) subject to the provisions of other management plans, the drift gillnet fishery will fish weekly fishing periods, as specified in 5 AAC [21.320](#), unless the department determines that the minimum inriver goal will not be met, at which time the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA

FISHING PERIODS ON KENAI RIVER LATE-RUN SOCKEYE SALMON ONLY IN THE KENAI AND KASILOF SECTIONS OF THE UPPER SUBDISTRICT;] subject to the provisions of other management plans, the drift gillnet fishery may be managed independent of the Upper Subdistrict set gillnet fishery to enhance product quality or for other management and conservation purposes; if these fisheries are managed independently for product quality, the set gillnet fishery will be opened before the drift gillnet fishery to reduce the effect on the inriver fisheries;

(B) subject to the provisions of other management plans, the Upper Subdistrict set gillnet fishery will fish regular weekly fishing periods, as specified in 5 AAC [21.320](#), through July 20, unless the department determines that the minimum inriver goal will not be met, at which time the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS IN JULY OF NO MORE THAN 24-HOURS PER WEEK, EXCEPT AS PROVIDED IN 5 AAC [21.365](#);

(2) at run strengths of 2,000,000 - 4,000,000 sockeye salmon, the department shall manage for an inriver goal range of 750,000 - 950,000 sockeye salmon past the sonar counter at river mile 19 as follows:

(A) subject to the provisions of other management plans, the drift gillnet fishery will fish weekly fishing periods, as specified in 5 AAC [21.320](#), unless the department determines that the minimum inriver goal will not be met, at which time the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS ON KENAI RIVER LATE-RUN SOCKEYE SALMON ONLY IN THE KASILOF AND KENAI SECTIONS OF THE UPPER SUBDISTRICT;] subject to the provisions of other management plans, the drift gillnet fishery may be managed independent of the Upper Subdistrict set gillnet fishery to enhance product quality or for other management and conservation purposes; if these fisheries are managed independently for product quality, the set gillnet fishery will be opened before the drift gillnet fishery to reduce the effect on the inriver fisheries;

(B) subject to the provisions of other management plans, the upper Subdistrict set gillnet fishery will fish regular weekly fishing periods, as specified in 5 AAC [21.320](#), through July 20, or until the department makes a determination of run strength, whichever occurs first; if the department determines that the minimum inriver goal will not be met, the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS IN JULY OF NO MORE THAN 36-HOURS PER WEEK, EXCEPT AS PROVIDED IN 5 AAC [21.365](#);

[(C) DURING JULY, THE UPPER SUBDISTRICT SET GILLNET FISHERY WILL BE CLOSED FOR AT LEAST ONE CONTINUOUS 48-HOUR PERIOD PER WEEK;]

(3) at run strengths greater than 4,000,000 sockeye salmon, the department shall manage for an inriver goal range of 850,000 - 1,100,000 sockeye salmon past the sonar counter at river mile 19 as follows:

(A) subject to the provisions of other management plans, the drift gillnet fishery will fish regular weekly fishing periods, as specified in 5 AAC [21.320](#), unless the department determines that the minimum inriver goal will not be met, at which time the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS ON KENAI RIVER LATE-RUN SOCKEYE SALMON ONLY IN THE KASILOF AND KENAI SECTIONS OF THE UPPER SUBDISTRICT;] subject to the provisions of other management plans, the drift gillnet fishery may be managed independent of

the Upper Subdistrict set gillnet fishery to enhance product quality or for other management and conservation purposes; if these fisheries are managed independently for product quality the set gillnet fishery will be opened before the drift gillnet fishery to reduce the effect on the inriver fisheries;

(B) subject to the provisions of other management plans, the Upper Subdistrict set gillnet fishery will fish regular weekly fishing periods, as specified in 5 AAC [21.320](#), through July 20, or until the department makes a determination of run strength, whichever occurs first; if the department determines that the minimum inriver goal will not be met, the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS IN JULY OF NO MORE THAN 60-HOURS PER WEEK, EXCEPT AS PROVIDED IN 5 AAC [21.365](#);

[(C) DURING JULY, THE UPPER SUBDISTRICT SET GILLNET FISHERY WILL BE CLOSED FOR AT LEAST ONE CONTINUOUS 36-HOUR PERIOD PER WEEK.]

(d) The sonar count levels established in (b)(2), (c)(1), and (c)(2) of this section may be lowered by the board if noncommercial fishing, after consideration of mitigation efforts, results in a net loss of riparian habitat on the Kenai River. The department will, to the extent practicable, conduct habitat assessments on a schedule that conforms to the Board of Fisheries (board) triennial meeting cycle. If the assessments demonstrate a net loss of riparian habitat caused by noncommercial fishermen, the department is requested to report those findings to the board and submit proposals to the board for appropriate modification of the Kenai River late-run sockeye salmon inriver goal.

(e) The board recognizes that major chum salmon stocks in Cook Inlet are currently below historic levels. Chum salmon stocks in upper Cook Inlet are bound primarily for the Northern District and are not harvested to an appreciable degree in the Kasilof and Kenai Sections of the Upper Subdistrict. To employ a precautionary approach to chum salmon management, [NO ADDITIONAL FISHING PERIODS SHALL BE GIVEN TO THE DRIFT GILLNET FISHERY OUTSIDE THE KASILOF AND KENAI SECTIONS OF THE UPPER SUBDISTRICT UNTIL SIGNIFICANT HARVESTABLE SURPLUSES OF CHUM SALMON ARE AVAILABLE.]

[(f) PINK SALMON STOCKS HARVESTED IN THE KASILOF, KENAI, AND EAST FORELANDS SECTIONS OF THE UPPER SUBDISTRICT ARE BOUND PRIMARILY FOR THE KENAI RIVER, AND PINK SALMON RUN TIMING IS SIMILAR TO THAT OF KENAI RIVER COHO SALMON. TO MINIMIZE THE HARVEST OF COHO SALMON, A DIRECTED PINK SALMON FISHERY MAY ONLY OCCUR AS SPECIFIED IN 5 AAC [21.356](#).]

(g) 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](#).

(h) Subject to the requirement of achieving the lower end of the optimal escapement goal, the department shall manage the sport fishery on the Kenai River, except that portion of the Kenai River from its confluence with the Russian River to an ADF&G regulatory marker located 1,800 yards downstream, as follows:

(1) fishing will occur seven days per week, 24 hours per day; and

(2) the bag and possession limit for the sport fishery is three sockeye salmon, unless the department determines that the abundance of late-run sockeye exceeds two million salmon, at which time the commissioner may, by emergency order, increase the bag and possession limit to six sockeye salmon.

(i) For the purposes of this section, "week" means a calendar week, a period of time beginning at 12:00:01 a.m. Sunday and ending at 12:00 midnight the following Saturday.

5 AAC 21.365. Kasilof River Salmon Management Plan. [(b) ACHIEVING THE LOWER END OF THE KENAI RIVER SOCKEYE SALMON ESCAPEMENT GOAL SHALL TAKE PRIORITY OVER NOT EXCEEDING THE UPPER END OF THE KASILOF RIVER OPTIMAL ESCAPEMENT GOAL RANGE OF 150,000 TO 300,000 SOCKEYE SALMON.]

(c) The commercial set gillnet fishery in the Kasilof Section shall be managed as follows:

(1) fishing will be opened on regular weekly fishing periods, as specified in 5 AAC [21.320](#), beginning with the first fishing period on or after June 25;

(2) from June 25 through July 7,

[(A) THE COMMISSIONER MAY, BY EMERGENCY ORDER, OPEN ADDITIONAL FISHING PERIODS OR EXTEND REGULAR WEEKLY FISHING PERIODS TO A MAXIMUM OF 48 HOURS OF ADDITIONAL FISHING TIME PER WEEK;]

[(B) THE FISHERY SHALL REMAIN CLOSED FOR AT LEAST ONE CONTINUOUS 48-HOUR PERIOD PER WEEK;]

(3) beginning July 8, the set gillnet fishery in the Kasilof Section will be managed as specified in 5 AAC [21.360\(c\)](#) ; in addition to the provisions of 5 AAC [21.360\(c\)](#), [THE COMMISSIONER MAY, BY EMERGENCY ORDER, LIMIT FISHING DURING THE REGULAR WEEKLY PERIODS AND ANY EXTRA FISHING PERIODS TO THOSE WATERS WITHIN ONE-HALF MILE OF SHORE,] if the set gillnet fishery in the Kenai and East Forelands Sections are not open for the fishing period;

(4) after July 15, if the department determines that the Kenai River late-run sockeye salmon run strength is projected to be less than two million fish and the 300,000 optimal escapement goal for the Kasilof River sockeye salmon may be exceeded, [THE COMMISSIONER MAY, BY EMERGENCY ORDER, OPEN FISHING FOR AN ADDITIONAL 24-HOURS PER WEEK IN THE KASILOF SECTION WITHIN ONE-HALF MILE OF SHORE AND AS SPECIFIED IN 5 AAC [21.360\(C\)](#)];

5 AAC 21.370. Packers Creek Sockeye Salmon Management Plan. [Delete all].

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. To delay the implementation of the court ruling will cause confusion, conflict and economic harm to the public that rely on the resource for economic livelihoods.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Resource 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. Yes--an ACR last year. The board delayed action on these issues pending the rulings by the Superior Court. Now that the case is settled it is time the BOF implemented the ruling.

Submitted By: United Cook Inlet Drift Association

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #15

PRESENT SITUATION: In 2002, two fishing groups, KPFA and UCIDA, filed a lawsuit challenging, among other things, restrictions to the department's emergency order (EO) authority put in regulation by the BOF. The Department of Law has advised ADF&G that the court upheld the Board's regulations with the EO restrictions, but ruled that the restrictions cannot be interpreted to prevent implementation of an EO contrary to a Board management plan when justified by new information.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to remove all limits on the department's EO authority and has provided a list of offending regulations.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? Yes. Removing the restrictions would allow for additional opportunities for commercial fishing periods.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Kenai Peninsula Fisherman's Association

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. Although the Board of Fisheries is granted wide-ranging power to regulate the fishery under AS 16.05.251, the board cannot place limits on the legislature's delegation of authority to the commissioner (including issuing emergency orders). The Supreme Court ruled that any board limitation on the commissioner's emergency order authority, no matter the circumstances, is invalid (case no. 3KN-02-524C1).

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: Board regulations as presently written need modification to comply with the Superior Court ruling (case no. 3KN-02-524C1).

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

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: Not applicable.

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 21.360. Kenai River Late-Run Sockeye Salmon Management Plan. (c) Based on preseason forecasts and inseason evaluations of the total Kenai River late-run sockeye salmon return during the fishing season, the run will be managed as follows:

(1) at run strengths of less than 2,000,000 sockeye salmon, the department shall manage for an inriver goal range of 600,000 - 850,000 sockeye salmon past the sonar counter at river mile 19 as follows:

(A) subject to the provisions of other management plans, the drift gillnet fishery will fish weekly fishing periods, as specified in 5 AAC [21.320](#), unless the department determines that the minimum inriver goal will not be met, at which time the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS ON KENAI RIVER LATE-RUN SOCKEYE SALMON ONLY IN THE KENAI AND KASILOF SECTIONS OF THE UPPER SUBDISTRICT;] subject to the provisions of other management plans, the drift gillnet fishery may be managed independent of the Upper Subdistrict set gillnet fishery to enhance product quality or for other management and conservation purposes; if these fisheries are managed independently for product quality, the set gillnet fishery will be opened before the drift gillnet fishery to reduce the effect on the inriver fisheries;

(B) subject to the provisions of other management plans, the Upper Subdistrict set gillnet fishery will fish regular weekly fishing periods, as specified in 5 AAC [21.320](#), through July 20, unless the department determines that the minimum inriver goal will not be met, at which time the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS IN JULY OF NO MORE THAN 24-HOURS PER WEEK, EXCEPT AS PROVIDED IN 5 AAC [21.365](#);

(2) at run strengths of 2,000,000 - 4,000,000 sockeye salmon, the department shall manage for an inriver goal range of 750,000 - 950,000 sockeye salmon past the sonar counter at river mile 19 as follows:

(A) subject to the provisions of other management plans, the drift gillnet fishery will fish weekly fishing periods, as specified in 5 AAC [21.320](#), unless the department determines that the minimum inriver goal will not be met, at which time the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS ON KENAI RIVER LATE-RUN SOCKEYE SALMON ONLY IN THE KASILOF AND KENAI SECTIONS OF THE UPPER SUBDISTRICT;] subject to the provisions of other management plans, the drift gillnet fishery may be managed independent of the Upper Subdistrict set gillnet fishery to enhance product quality or for other management and conservation purposes; if these fisheries are managed independently for product quality, the set gillnet fishery will be opened before the drift gillnet fishery to reduce the effect on the inriver fisheries;

(B) subject to the provisions of other management plans, the upper Subdistrict set gillnet fishery will fish regular weekly fishing periods, as specified in 5 AAC [21.320](#), through July 20, or until the department makes a determination of run strength, whichever occurs first; if the department determines that the minimum inriver goal will not be met, the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS IN JULY OF NO MORE THAN 36-HOURS PER WEEK, EXCEPT AS PROVIDED IN 5 AAC [21.365](#);

[(C) DURING JULY, THE UPPER SUBDISTRICT SET GILLNET FISHERY WILL BE CLOSED FOR AT LEAST ONE CONTINUOUS 48-HOUR PERIOD PER WEEK;]

(3) at run strengths greater than 4,000,000 sockeye salmon, the department shall manage for an inriver goal range of 850,000 - 1,100,000 sockeye salmon past the sonar counter at river mile 19 as follows:

(A) subject to the provisions of other management plans, the drift gillnet fishery will fish regular weekly fishing periods, as specified in 5 AAC [21.320](#), unless the department determines that the minimum inriver goal will not be met, at which time the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS ON KENAI RIVER LATE-RUN SOCKEYE SALMON ONLY IN THE KASILOF AND KENAI SECTIONS OF THE UPPER SUBDISTRICT;] subject to the provisions of other management plans, the drift gillnet fishery may be managed independent of the Upper Subdistrict set gillnet fishery to enhance product quality or for other management and conservation purposes; if these fisheries are managed independently for product quality the set gillnet fishery will be opened before the drift gillnet fishery to reduce the effect on the inriver fisheries;

(B) subject to the provisions of other management plans, the Upper Subdistrict set gillnet fishery will fish regular weekly fishing periods, as specified in 5 AAC [21.320](#), through July 20, or until the department makes a determination of run strength, whichever occurs first; if the department

determines that the minimum inriver goal will not be met, the fishery shall be closed or restricted as necessary; [THE COMMISSIONER MAY, BY EMERGENCY ORDER, ALLOW EXTRA FISHING PERIODS IN JULY OF NO MORE THAN 60-HOURS PER WEEK, EXCEPT AS PROVIDED IN 5 AAC [21.365](#).]

[(C) DURING JULY, THE UPPER SUBDISTRICT SET GILLNET FISHERY WILL BE CLOSED FOR AT LEAST ONE CONTINUOUS 36-HOUR PERIOD PER WEEK.]

(d) The sonar count levels established in (b)(2), (c)(1), and (c)(2) of this section may be lowered by the board if noncommercial fishing, after consideration of mitigation efforts, results in a net loss of riparian habitat on the Kenai River. The department will, to the extent practicable, conduct habitat assessments on a schedule that conforms to the Board of Fisheries (board) triennial meeting cycle. If the assessments demonstrate a net loss of riparian habitat caused by noncommercial fishermen, the department is requested to report those findings to the board and submit proposals to the board for appropriate modification of the Kenai River late-run sockeye salmon inriver goal.

(e) The board recognizes that major chum salmon stocks in Cook Inlet are currently below historic levels. Chum salmon stocks in upper Cook Inlet are bound primarily for the Northern District and are not harvested to an appreciable degree in the Kasilof and Kenai Sections of the Upper Subdistrict. To employ a precautionary approach to chum salmon management, [NO ADDITIONAL FISHING PERIODS SHALL BE GIVEN TO THE DRIFT GILLNET FISHERY OUTSIDE THE KASILOF AND KENAI SECTIONS OF THE UPPER SUBDISTRICT UNTIL SIGNIFICANT HARVESTABLE SURPLUSES OF CHUM SALMON ARE AVAILABLE.]

[(f) PINK SALMON STOCKS HARVESTED IN THE KASILOF, KENAI, AND EAST FORELANDS SECTIONS OF THE UPPER SUBDISTRICT ARE BOUND PRIMARILY FOR THE KENAI RIVER, AND PINK SALMON RUN TIMING IS SIMILAR TO THAT OF KENAI RIVER COHO SALMON. TO MINIMIZE THE HARVEST OF COHO SALMON, A DIRECTED PINK SALMON FISHERY MAY ONLY OCCUR AS SPECIFIED IN 5 AAC [21.356](#).]

(g) 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](#).

(h) Subject to the requirement of achieving the lower end of the optimal escapement goal, the department shall manage the sport fishery on the Kenai River, except that portion of the Kenai River from its confluence with the Russian River to an ADF&G regulatory marker located 1,800 yards downstream, as follows:

(1) fishing will occur seven days per week, 24 hours per day; and

(2) the bag and possession limit for the sport fishery is three sockeye salmon, unless the department determines that the abundance of late-run sockeye exceeds two million salmon, at which time the commissioner may, by emergency order, increase the bag and possession limit to six sockeye salmon.

(i) For the purposes of this section, "week" means a calendar week, a period of time beginning at 12:00:01 a.m. Sunday and ending at 12:00 midnight the following Saturday.

5 AAC 21.365. Kasilof River Salmon Management Plan. [(b) ACHIEVING THE LOWER END OF THE KENAI RIVER SOCKEYE SALMON ESCAPEMENT GOAL SHALL TAKE PRIORITY OVER NOT EXCEEDING THE UPPER END OF THE KASILOF RIVER OPTIMAL ESCAPEMENT GOAL RANGE OF 150,000 TO 300,000 SOCKEYE SALMON.]

(c) The commercial set gillnet fishery in the Kasilof Section shall be managed as follows:

- (1) fishing will be opened on regular weekly fishing periods, as specified in 5 AAC [21.320](#), beginning with the first fishing period on or after June 25;
- (2) from June 25 through July 7,
[(A) THE COMMISSIONER MAY, BY EMERGENCY ORDER, OPEN ADDITIONAL FISHING PERIODS OR EXTEND REGULAR WEEKLY FISHING PERIODS TO A MAXIMUM OF 48 HOURS OF ADDITIONAL FISHING TIME PER WEEK;]
[(B) THE FISHERY SHALL REMAIN CLOSED FOR AT LEAST ONE CONTINUOUS 48-HOUR PERIOD PER WEEK;]
- (3) beginning July 8, the set gillnet fishery in the Kasilof Section will be managed as specified in 5 AAC [21.360\(c\)](#) ; in addition to the provisions of 5 AAC [21.360\(c\)](#), [THE COMMISSIONER MAY, BY EMERGENCY ORDER, LIMIT FISHING DURING THE REGULAR WEEKLY PERIODS AND ANY EXTRA FISHING PERIODS TO THOSE WATERS WITHIN ONE-HALF MILE OF SHORE,] if the set gillnet fishery in the Kenai and East Forelands Sections are not open for the fishing period;
- (4) after July 15, if the department determines that the Kenai River late-run sockeye salmon run strength is projected to be less than two million fish and the 300,000 optimal escapement goal for the Kasilof River sockeye salmon may be exceeded, [THE COMMISSIONER MAY, BY EMERGENCY ORDER, OPEN FISHING FOR AN ADDITIONAL 24-HOURS PER WEEK IN THE KASILOF SECTION WITHIN ONE-HALF MILE OF SHORE AND AS SPECIFIED IN 5 AAC [21.360\(C\)](#)];

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. To delay the implementation of the court ruling will cause confusion, conflict, and economic harm to the public that rely on the resources for economic livelihoods.

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

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. Petition by KPFA addressing these issues consequently the court decided the above matters.

Submitted By: Kenai Peninsula Fishermen's Association

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #16

PRESENT SITUATION: In 2002 the Board of Fisheries (BOF) restricted the number of hours of additional fishing time that can be allowed by emergency order in the Upper Subdistrict set gillnet fishery. These limits are 24, 36, or 60 hours per management week (Sunday to Saturday) depending on the size of Kenai River sockeye run. In addition, there are mandated window periods of 36 or 48 hours each week during which the fishery must be closed when Kenai River late-run sockeye salmon returns are over two million. In each of the last two years, sockeye salmon escapement into the Kenai River exceeded the in-river goal (750,000-950,000) even though all of the available fishing time specified by the management plans was utilized. In the Kasilof River, the escapement was at the upper end of the BEG one year and exceeded the OEG by 20% the second year. Under certain conditions, the current regulations can make it difficult to manage within established escapement goals.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks remove from regulation all hourly limitations that are currently in 5 AAC 21.360, 5 AAC 21.357 and 5 AAC 21.365 and manage for the established escapement goals.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? The proposal is not primarily allocative, because it intends to increase the harvest of sockeye salmon surplus to the spawning escapement, but it may have significant allocative consequences depending on the respective size of the sockeye, king, and coho returns.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Paul Crookston

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. Remove the hour limitations in the Kenai sockeye (5 AAC 21.360), Kenai coho (5 AAC 21.357), and Kasilof River (5 AAC 21.365) management plans as they apply to the Kenai, Kasilof and East Foreland sections set gillnet fishery.

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: The department cannot manage for the escapement goals set out in management objectives by the Board of Fisheries. The arbitrary number of hours of emergency order does not allow for the harvest of abundant sockeye salmon stocks bound for the Kenai River.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: The removal of the arbitrary restrictions on emergency orders put in regulation by the last board in 2002 will allow the department to manage for an optimum escapement that will benefit all user groups.

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

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.357(3). Kenai River Coho Salmon Conservation Management Plan; 5 AAC 21.360(c, e, and f). Kenai River Late-Run Sockeye Salmon Management Plan; 5 AAC 21.365(b and c). Kasilof River Salmon Management Plan.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. The last two years' escapements to the Kenai and Kasilof have exceeded the escapement goals. Next year's return appears from all indications to be as strong this year. Recent studies on Kenai and Skilak lakes indicate these high escapements are not appropriate in sockeye spawning production--further jeopardizing economic benefit to all user groups.

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. To my knowledge, not considered.

Submitted By: Paul Crookston

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #17

PRESENT SITUATION: In 2002 the Board of Fisheries (BOF) put limitations in regulation on the number of hours of additional fishing time, by emergency order, that can be given in the Upper Subdistrict set gillnet fishery of 24, 36, or 60 hours per management week (Sunday to Saturday) dependant on the size of Kenai River sockeye run. In addition, each week there are mandated window periods of 36 or 48 hours during which the fishery must be closed when Kenai River late-run sockeye salmon returns are determined to be over two million. In the last two years, all of the additional fishing periods specified in the management plans have been utilized, but the escapement of sockeye salmon into the Kenai River still exceeded the in-river goal range of (750,000-950,000). In the Kasilof River, the escapement was at the upper end of the BEG one year and exceeded the OEG by 20% the second year. Under certain conditions, the current regulations can make it difficult to manage within established escapement goals.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks remove from regulation all hourly limitations that are currently in 5 AAC 21.360, 5 AAC 21.357 and 5 AAC 21.365 and manage for the established escapement goals.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? The proposal is not primarily allocative, because it intends to increase the harvest of sockeye salmon surplus to the escapement goal, but it may have significant allocative consequences depending on the respective size of the sockeye, king, and coho returns.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Ted Crookston

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. Remove the hour limitations in the Kenai sockeye (5 AAC 21.360), Kenai coho (5 AAC 21.357), and Kasilof River (5 AAC 21.365) management plans as they apply to the Kenai, Kasilof and East Foreland sections set gillnet fishery.

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: The department cannot manage for the escapement goal set out in management objectives by the Board of Fisheries. The arbitrary number of hours of emergency order precludes the harvest of abundant sockeye salmon stocks bound for the Kenai River.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: The escapement goal has already been established by regulation. However, because of the arbitrary restrictions on emergency orders put in regulation by the last board in 2002, the department cannot manage for escapement based on real time current conditions during the actual salmon run.

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

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.357(3). Kenai River Coho Salmon Conservation Management Plan; 5 AAC 21.360(c,e, and f). Kenai River Late-Run Sockeye Salmon Management Plan; 5 AAC 21.365(b&c). Kasilof River Salmon Management Plan.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. The last two years' escapements to the Kenai and Kasilof have exceeded the escapement goals. Next year's return appears from all indications to be at least as strong as this year. Recent studies on Skilak and Kenai lakes indicate these high escapements are not appropriate in sockeye spawning production--further jeopardizing economic benefit to all user groups.

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. To my knowledge, not considered.

Submitted By: Ted Crookston

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #6

PRESENT SITUATION: In 2002 the Board of Fisheries (BOF) adopted regulations limiting the number of hours of additional fishing time the department could authorize by emergency order. Those limits are, in the Upper Subdistrict set gillnet fishery, 24, 36, or 60 hours per management week (Sunday to Saturday) depending on the size of Kenai River sockeye run. In addition, each week there are mandated window periods of 36 or 48 hours during which the fishery must be closed, when Kenai River late-run sockeye salmon returns are determined to be over two million. In the last two years, all of the additional fishing periods specified in the management plans have been utilized, but the escapement of sockeye salmon into the Kenai River still exceeded the in-river goal range of (750,000-950,000). In the Kasilof River, the escapement was at the upper end of the BEG one year and exceeded the OEG by 20% the second year. Under certain conditions, the current regulations make it difficult to manage within established escapement goals.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to remove from regulation all emergency order hourly limitations that are currently in 5 AAC 21.360, 5 AAC 21.357 and 5 AAC 21.365.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? The proposal is not primarily allocative, because it intends to increase the harvest of sockeye salmon surplus to the escapement goals, but it may have significant allocative consequences depending on the respective size of the sockeye, king, and coho returns.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Gary Hollier

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. Remove the hour limitations in the Kenai sockeye (5 AAC 21.360), Kenai coho (5 AAC 21.357), and Kasilof River (5 AAC 21.365) management plans as they apply to the Kenai, Kasilof and East Foreland sections set gillnet fishery.

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: It must be an unforeseen effect of a regulation as the department can either manage for the escapement goal or an arbitrary number of hours of emergency order, but obviously not both. In each of the last two years since these regulations were enacted the goals in both rivers have been exceeded. These hour limitations are both arbitrary and capricious and should be removed so the department can adequately manage for the scientifically-based escapement goals, so that everyone benefits.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: This request would allow the department to manage the fishery to achieve the escapement that brings back the most fish for everyone. The escapement goal has already been established in regulation; only because of the arbitrary restrictions on emergency orders put in regulation by the last board, the department cannot manage for those numbers. Allowing the department to manage more efficiently will benefit all users.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Not allocative, stops the waste of fish and poor returns from overescapements.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.357(3), 5 AAC 21.360(c,e, and f), 5 AAC 21.365(b and c).

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. The last two years' escapements to the Kenai and Kasilof have exceeded the escapement goals. Next year's return will also likely also be very good from all indications. This is the exact situation that brought back the extremely poor returns in the early 1990s. Recent studies on the lakes indicate that these high escapements are very risky. We should stop repeating past mistakes.

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 fish commercial, sport and personal use.

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. I do not believe this has been considered.

Submitted By: Gary Hollier

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #8

PRESENT SITUATION: Beginning in 1996, the BOF modified several UCI management plans with regards to coho salmon management. Regulatory changes for a combination of conservation and allocation reasons were made for Northern District coho salmon that restricted a regular period in the Central District drift fishery. A special BOF meeting was convened in 1997 through a petition submitted by the Department based on high Kenai River coho salmon harvests beginning in 1993 and 1994, which were thought to be unsustainable and declining Moose River (Kenai River tributary) smolt counts. As a result of this meeting, restrictions affecting all users were put into regulation to conserve Kenai River coho salmon. In 1999 further restrictions were put in place to allocate and conserve Northern District coho salmon at the regular BOF meeting. In 2000, a special BOF meeting was convened through a petition submitted by the Governor based on low abundance of coho salmon throughout Cook Inlet. As a result of this meeting, more restrictions were put in place to conserve both Kenai River and Northern District coho salmon. These restrictions included:

Commercial Fishery – The eastside setnet fishery was closed on August 7, and additional fishing time was limited to not more than one, up to 24 hour, period. In the Northern District, after the last regular weekly fishing period in July through August 10, legal gear was reduced to not more than two set gillnets that are not more than 70 fathoms in aggregate length and the Fish Creek Terminal fishery in Knik Arm was closed. Drift gillnets were restricted during two regular periods in mid to late July to the Kenai and Kasilof Sections and all additional fishing time is restricted to the Kenai and Kasilof Sections only.

Sport Fishery – Salt water bag limits were reduced from six to three, except in terminal fisheries targeting hatchery coho salmon. In freshwater sport fisheries, daily bag limits were reduced from three to two fish except for terminal fisheries targeting hatchery fish and West Cook Inlet streams south of West Foreland. The Kenai River was closed to coho sport fishing from August 1-3, the season closed on October 1, and guides could no longer fish while clients are present. The bag limit was reduced from three to one in Russian River. Wasilla Creek and portions of Jim Creek were closed to coho salmon sport fishing. At the February 2002 BOF meeting, portions of Wasilla Creek were reopened.

Personal Use – All salt water gillnet fisheries were closed with the exception of the Kasilof Terminal area in June and the dip net fishery in the Kenai was closed on July 31 instead of on August 5.

In the years 1998, 2000, 2001 and 2002 coho returns to monitored systems in Upper Cook Inlet have met or exceeded published escapement goal. In 2001 and 2002 the upper end of all escapement goals were exceeded. Preliminary 2003 estimates indicate that the lower end of two escapement goals will be exceeded. Surveys of two systems have not been completed.

There are no coho salmon yield or management concerns (as defined in 5 AAC 39.222. Policy For The Management of Sustainable Salmon Fisheries) in any monitored system in Upper Cook Inlet.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to eliminate restrictions to the commercial fishery in the Kenai River Coho Salmon Conservation Management Plan, the Northern District Salmon Management Plan, the Cook Inlet Pink Salmon Management Plan. This ACR also would eliminate personal use fishing restrictions in the Personal Use Plan and would restore the recreational fishery bag limits to three coho salmon per day and remove the Kenai River closure from August 1-3 and eliminate the September 30 closure.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No. As written, the ACR seeks to rescind regulatory actions specified above. The department may have greater flexibility in managing the abundance-based commercial sockeye fishery in early August, and the coho harvest may increase in the commercial and sport fisheries. Depending on the size of the coho run, some restrictions may still be necessary.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? When the restrictions were put into place during the 2000 BOF meeting, the Board's stated intent was for them to be allocatively neutral. However, if the Board were to rescind the restrictions, changes in the various fisheries during the last three years could result in a reallocation of the resource between the user groups. The effect of the reallocation, and which users might benefit, would depend on the size of the sockeye salmon run and the size of the coho salmon run in Cook Inlet.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: In fall 2002, an agenda change request (ACR #36) similar to this ACR was submitted requesting that all regulatory actions specific to coho salmon conservation taken by the BOF since 1996 be rescinded. The board denied this request as they determined it did not meet the criteria. In spring 2003, a petition similar to this ACR was submitted to the BOF. The BOF did not find an emergency existed.

PROPOSED BY: United Cook Inlet Drift Association

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. Strong adult returns and smolt outmigrations make it necessary to change current management plans that contain the now nonexistent coho conservation regulations. The 2000, 2001, and 2002 years had large returns of adult coho salmon and large smolt outmigration in Upper Cook Inlet. The 2003 coho adult return was more than adequate to allow for changes to be made in the management plans.

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: To promote an orderly development of Upper Cook Inlet fishery resources. To provide for economic return and public opportunity to harvest coho.

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

or 3) correct an unforeseen effect of a regulation: Lost harvest opportunities on all salmon stocks due to the new unnecessary coho conservation restrictions. To modify the coho conservation regulations to reflect the recovery of coho stocks after the board imposed coho conservation restrictions in 2000.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: The current Upper Cook Inlet salmon management regulations were based on a single year (1999) of coho escapement information. The board in 2000 placed coho conservation regulations based on one year of data. The coho conservation regulations were not to be allocative, so reviewing and removing the same regulations would also be nonallocative. The coho conservation regulations could not have been allocative because the board did not apply the allocation criteria. Additionally, the 2000 coho conservation regulations were adopted as a result of an ACR.

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 21.358. Northern District Salmon Management Plan, paragraphs a, c, d, e, f, and g. 5 AAC 61.022. Waters; Seasons; Bag, Possession, and Size Limits; and Special Provisions for the Susitna-West Cook Inlet Area. 5 AAC 21.357. Kenai River Coho Salmon Conservation Management Plan.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. There will be lost economic harvest in the commercial fleet if these coho regulations are not removed or changed. Sport fishing will also have an unnecessary

restriction on coho daily bag limit of two instead of three. Delay will cause unnecessary economic stress and lost opportunity to resource users.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Limited entry permit holders, drift gillnet, set gillnet and sport fishermen.

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. At the February 2002 board meetings board members said they wanted to see a trend toward coho recovery before they removed the February 2000 coho conservation measures. Clearly coho stock in UCI are recovered and healthy enough to allow for “conservation” regulations to be relaxed.

Submitted By: United Cook Inlet Drift Association

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #14

PRESENT SITUATION: Beginning in 1996, the BOF modified several UCI management plans with regards to coho salmon management. Regulatory changes for a combination of conservation and allocation reasons were made for Northern District coho salmon that restricted a regular period in the Central District drift fishery. A special BOF meeting was convened in 1997 through a petition submitted by the Department based on high Kenai River coho salmon harvests beginning in 1993 and 1994, which were thought to be unsustainable and declining Moose River (Kenai River tributary) smolt counts. As a result of this meeting, restrictions affecting all users were put into regulation to conserve Kenai River coho salmon. In 1999 further restrictions were put in place to allocate and conserve Northern District coho salmon at the regular BOF meeting. In 2000, a special BOF meeting was convened through a petition submitted by the Governor based on low abundance of coho salmon throughout Cook Inlet. As a result of this meeting, more restrictions were put in place to conserve both Kenai River and Northern District coho salmon. These restrictions included:

Commercial Fishery – The eastside setnet fishery was closed on August 7, and additional fishing time was limited to not more than one, up to 24 hour, period. In the Northern District, after the last regular weekly fishing period in July through August 10, legal gear was reduced to not more than two set gillnets that are not more than 70 fathoms in aggregate length and the Fish Creek Terminal fishery in Knik Arm was closed. Drift gillnets were restricted during two regular periods in mid to late July to the Kenai and Kasilof Sections and all additional fishing time is restricted to the Kenai and Kasilof Sections only.

Sport Fishery – Salt water bag limits were reduced from six to three, except in terminal fisheries targeting hatchery coho salmon. In freshwater sport fisheries, daily bag limits were reduced from three to two fish except for terminal fisheries targeting hatchery fish and West Cook Inlet streams south of West Foreland. The Kenai River was closed to coho sport fishing from August 1-3, the season closed on October 1, and guides could no longer fish while clients are present. The bag limit was reduced from three to one in Russian River. Wasilla Creek and portions of Jim Creek were closed to coho salmon sport fishing. At the February 2002 BOF meeting, portions of Wasilla Creek were reopened.

Personal Use – All salt water gillnet fisheries were closed with the exception of the Kasilof Terminal area in June and the dip net fishery in the Kenai was closed on July 31 instead of on August 5.

In the years 1998, 2000, 2001 and 2002 coho returns to monitored systems in Upper Cook Inlet have met or exceeded published escapement goal. In 2001 and 2002 the upper end of all escapement goals were exceeded. Preliminary 2003 estimates indicate that the lower end of two escapement goals will be exceeded, and surveys of two systems have not been completed.

There are no coho salmon yield or management concerns (as defined in 5 AAC 39.222. Policy For The Management of Sustainable Salmon Fisheries) in any monitored system in Upper Cook Inlet.

Sockeye salmon escapement to the Kenai River exceeded the upper end of the inriver goal range in two of the last four years, while in the Kasilof River the OEG has been exceeded two of the last four years.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to return late season sockeye and coho management to the regulatory framework that was in place prior to 1997.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No. As written, the ACR seeks to rescind regulatory actions specified above. The department may have greater flexibility in managing the abundance-based commercial sockeye fishery in early August, and the coho harvest may increase in the commercial and sport fisheries. Depending on the size of the coho run, some restrictions may still be necessary.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? When the restrictions were put into place during the 2000 BOF meeting, the Board's stated intent was for them to be allocatively neutral. However, if the board were to return to the prior regulatory scheme, the changes that have come about in the various fisheries under the current regulations during the last three years could be expected to result in a reallocation of the resource between the user groups. The effect of the reallocation, and which users might benefit, would depend on the size of the sockeye salmon run and the size of the coho salmon run in Cook Inlet.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: In fall 2002, an agenda change request (ACR #36) similar to this ACR was submitted requesting that all regulatory actions specific to coho salmon conservation taken by the BOF since 1996 be rescinded. The board denied this request as they determined it did not meet the criteria. In spring 2003, a petition similar to this ACR was submitted to the BOF. The BOF did not find an emergency existed.

PROPOSED BY: Kenai Peninsula Fisherman's Association

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. Presently, Eastside setnet commercial fishermen are precluded from harvesting abundant sockeye stocks in August due to arbitrary restrictions in place under 5 AAC 21.357, Kenai River Coho Salmon Conservation Management Plan.

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: Conservation restrictions applied under special 2000 board meeting had an allocative effect on sockeye stocks bound for Kenai River.

or 2) Correct an error in regulation: No conservation exists on these stocks therefore restrictions placed in regulation affecting these stocks should be removed.

or 3) correct an unforeseen effect of a regulation: Eastside setnet commercial fishermen are precluded from harvesting abundant sockeye salmon bound for the Kenai River even when escapement goals have been met or exceeded (2002, 2003).

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: By taking away the restrictions put in place in 2000. All user groups should benefit equally when lifted.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Not allocative. But 5 AAC 21.357 has direct impact in unnecessarily restricting harvest on sockeye stocks bound for the Kenai River. Reference 5 AAC 21.360, Kenai River Late-Run Sockeye Salmon Management Plan.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.357, Kenai River Coho Salmon Conservation Management Plan. section part (A) remains. Delete (1), (2), (3), (4), and (5), also (A), (B), and (C).

5 AAC 21.310(2)(B). Fishing seasons...(iii) by set gillnets in the Kasilof Section from June 25 through August 15 [7]...(iv) by set gillnets in the Kenai and East Forelands Section from June 25 through August 15 [7]...

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. 2004 will repeat the unnecessary forgone harvest on sockeye and coho stocks bound for the Kenai River. Economic opportunity of harvest will be precluded and future impacts on sockeye escapement will exist--risking future economic losses to our industry.

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 fishermen.

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. Regular cycle meeting in 2002 and ACR in 2003. New information by the department clearly refutes restriction put in place in 2000 board special meeting.

Submitted By: Kenai Peninsula Fishermen's Association

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #18

PRESENT SITUATION: Beginning in 1997, the Board modified several UCI management plans with regards to coho salmon management. The closing date for the Upper Subdistrict set gillnet fishery was changed from August 15 to the current closing date of August 7. This change in the season closing date from August 15 to August 7 has reduced the opportunity for pink, sockeye and coho salmon harvest in the east side set net fishery.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal would return the season closing date to August 15 and remove restrictions in the Kenai River Coho Salmon Conservation Plan, 5 AAC 21.357, as they pertain to the set gillnet fishery. In effect this would return management to the regulations that were in place in 1996.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? Yes.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Kenai Peninsula Fisherman's Association

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. The Eastside setnet fishery is precluded from harvesting abundant pink salmon stocks in Upper Cook Inlet.

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: 5 AAC 21.356. Cook Inlet Pink Salmon Management Plan allows for drift-only harvest on pink salmon stocks.

or 3) correct an unforeseen effect of a regulation: Pink salmon stocks bound for Kenai River on even years are evaluated in the 4 to 6 million range. A reasonable opportunity to commercially harvest surplus stock is not available by this current regulation.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: Eastside setnet commercial fishermen have historically harvested these stocks (Kenai River pink salmon stocks) in August, while other user groups harvest minimal pink salmon, i.e., less than 20,000 taken by sport fishermen. The commercial drift are unable to harvest these stocks, which migrate throughout the Eastside beaches bound for the Kenai River.

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

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.356. Cook Inlet Pink Salmon Management Plan. paragraph (a) remains, delete (b), (c), (d), (e); 5 AAC 21.357(a)(3). Kenai River Coho Salmon Conservation Management Plan; 5 AAC 21.310(2)(B)(iii and iv). Fishing seasons.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. 2004 will have several millions of pink salmon returning to the Kenai River. Under present management plans and season closing precludes the harvest of these abundant stocks in the 2004 season if not addressed wasting millions of pounds of pink salmon available to be harvested. Traditionally 500,000-700,000 pink salmon available for harvest between August 7-15 with minimal impact on Kenai River coho stocks.

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 fishermen.

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. 2002 board regular cycle meeting. The board wanted 2002 and 2003 coho data information available from the department for review. This information is now available which clearly states there is no conservation concerns for coho stocks bound for the Kenai River as stated by the department.

Submitted By: Kenai Peninsula Fishermen's Association

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #9

PRESENT SITUATION: Beginning in 1996 the BOF put limitations in regulation on the area open to drift gillnetting during hours of additional fishing time. Specifically, all additional hours of drift gillnetting outside regular Monday and Thursday regular periods are limited to the Kenai and Kasilof corridor, which is a 1.5 to 4 mile band of water on the east side of Cook Inlet. The intent of these regulations was to move Northern District fish into the Northern District. At the time the restrictions were incorporated, there were approximately 585 drift gillnet permits fishing each year, that number has declined to approximately 410 in 2002 and 2003.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to remove from regulation area limitations applying to the drift fleet contained within 5 AAC 21.358, 5 AAC 21.360, and 5 AAC 21.356 and manage for the established escapement goals or other biological parameters.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? Yes. Allowing additional opportunities outside the corridor would increase the drift fleets catch of fish and prevent those fish from being available for other users to catch.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: United Cook Inlet Drift Association

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. The present management plan that restricts the drift gillnet fleet to the Kasilof/Kenai corridors makes it impossible to adequately provide harvest opportunities on Kenai sockeye returns approaching 3 million. In 2003 the drift gillnet fleet harvested 45% of the commercial catch. Our historical harvest (1976-2002) is 56% of the commercial catch.

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:** Restricting the drift gillnet fleet to the Kasilof/Kenai corridors has a large allocative effect that was not planned or publicly discussed at the board meeting.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: By allowing the drift fleet to have additional fishing opportunities outside the Kasilof/Kenai corridors will return the historical catches between drift and net groups. Historically (between 1976-2002) the drift fleet harvested 56% and the set netters harvested 44% of the commercial harvest. In 2003, the drift fleet caught 45% and the set netters caught 55% of the commercial harvest.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Failure to allow for these changes will be allocative.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.360. Kenai River Late-Run Sockeye Salmon Management Plan. (c)(1)(A) provide for both corridor and district wide openings at the discretion of the commissioner [DELETE CURRENT PARAGRAPH]. (c)(2)(A) provide for both corridor and district wide openings at the discretion of the commissioner [DELETE CURRENT PARAGRAPH]. (c)(3)(A) provide for both corridor and district wide openings at the discretion of the commissioner [DELETE CURRENT PARAGRAPH].

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Kenai late-run sockeye returns approaching 3 million cannot be harvested at appropriate levels with the drift fleet restricted to the Kasilof/Kenai corridors. In 2003 the corridor restrictions proved to be inappropriate and the commissioner issued emergency order #20 that provided for a district-wide opening for the drift fleet. Either more fishing time district-wide or increasing fishing effectiveness is required in otherwise a reallocation of harvest occurs, which the board did not address.

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 fishermen.

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. Was part of discussion at 2002 board meeting. Our testimony to the board at that time was “being restricted to the Kasilof/Kenai corridors will not allow for the flexibility needed for the drift fleet to harvest returns approaching 3 million to the Kenai.” 2003 proved us to be correct.

Submitted By: United Cook Inlet Drift Association.

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #10

PRESENT SITUATION: Beginning in 1996, the BOF limited the area open to drift gillnetting during the hours of additional fishing time. Specifically, all additional hours of drift gillnetting outside regular Monday and Thursday regular periods are limited to the Kenai and Kasilof corridor, which is a 1.5 to 4 mile band of water on the east side of Cook Inlet. The intent of these regulations was to move Northern District fish into the Northern District. At the time the restrictions were incorporated, there were approximately 585 drift gillnet permits fishing each year, that number has declined to approximately 410 in 2002 and 2003.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to allow, on an experimental basis, the use of longer (50 fathoms longer) and deeper (15 meshes) for drift gillnetting in Cook Inlet.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? Yes. Allowing additional gear to be fished by the drift fleet would increase the drift fleets catch of fish.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: United Cook Inlet Drift Association

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. Historically (1976-2002) the drift gillnet fleet harvested 56% of the commercial catch of sockeye salmon in UCI. During 2003 the drift fleet's harvest of sockeye salmon was 45% in UCI. In order to maintain the 1976-2002 harvest percentages between the drift and set nets, some regulatory changes are required.

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: Maintain historic harvest rates, drift 56%, set net 44% of the commercial harvests.

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: Due to the corridor restrictions placed on the drift fleet and the resulting smaller drift fleet in 2003 (410 drifters in 2003 vs. 585 drifters in 1992), there has been a reallocation at run strengths approaching 3 million sockeye. The cumulative effects of the restrictions on the drift fleet have never been addressed by the board. So we are asking for some gear changes that will help to restore the historic balance between harvest groups.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. To maintain historic fishing allocations some gear changes are needed.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.331. Gillnet specifications and operations. (c) [A DRIFT GILLNET MAY NOT BE MORE THAN 150 FATHOMS IN LENGTH AND 45 MESHES IN DEPTH,] the department is authorized by the board to test on an experimental basis, by using up to 200 fathoms in length and up to 60 meshes in depth.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. In 2003 the drift gillnet realized only 45% of the harvest as compared to their historical 56% harvest rate. Either more fishing time district-wide or fishing effectiveness is needed otherwise a reallocation of harvest occurs which the board did not address.

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 fishermen.

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. Never addressed.

Submitted By: United Cook Inlet Drift Association

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #13

PRESENT SITUATION: In 2002 the Board of Fisheries (BOF) restricted the number of hours of additional fishing time, by emergency order, that could be given in the Kasilof Section of the Upper Subdistrict set gillnet fishery of 24 to 60 hours per management week (Sunday to Saturday), dependant on the size of Kenai River sockeye run. In addition, mandated window periods of 36 or 48 hours of closure were required each management week. Finally, the set gillnet fishery in the Kasilof Section was opened on the first period on or after June 25; the previous opening data was on or after July 1, or anytime after June 25 if the department could project a sockeye salmon escapement of 50,000. For the past two years, all available fishing time authorized by the management plans in Kasilof Section was utilized. In the Kasilof River, the escapement was at the upper end of the BEG one year and exceeded the OEG by 20% the second year. Under certain conditions, the current regulations can make it difficult to manage within established escapement goals.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to eliminate the OEG in the Kasilof River Salmon Management Plan and use the BEG as a basis for management actions. In addition, this proposal seeks to remove from regulation all hourly limitations that are currently in 5 AAC 21.365 and manage for the established escapement goals.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? Yes. The changes to the Kasilof goal and elimination of the hourly restrictions could allow for additional opportunity for the commercial users.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Kenai Peninsula Fisherman's Association

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. The department is unable to manage for escapement objectives on sockeye salmon into the Kasilof River. Overescapements have occurred in six of the last seven years. Escapement objectives cannot be managed by the department as presently written.

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: 5 AAC 21.365. Kasilof River Management Plan unnecessarily restricts the harvest on abundant sockeye salmon stocks bound for the Kasilof River. Restrictions in regulation exist even when minimum/maximum escapement objectives are achieved on Kenai River sockeye stocks.

or 3) correct an unforeseen effect of a regulation: In 2002 the board put into regulation a Kasilof River Management Plan which has unnecessary and unforeseen effects on escapement levels into the Kasilof River. Arbitrary hourly limitations and mandatory 48-hour closures directly effects escapement levels into the Kasilof as stated above.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: Overescapement on the Kasilof River sockeye salmon stocks is a management issue not an 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 21.365(b). Kasilof River Salmon Management Plan...the upper end of the Kasilof River optimal escapement goal range of 250,000 [150,000] to 300,000 sockeye salmon. Delete paragraph (c).

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Escapement objectives cannot be managed by the department. Reasonable opportunity of harvest in 2004 will be precluded.

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 fishermen.

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: Kenai Peninsula Fishermen's Association

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #20

PRESENT SITUATION: The Northern District king salmon fishery opens for three commercial fishing periods, with the first period beginning on the first Monday on or after May 25. The area from the Theodore River to the Susitna River is open the second regular Monday period only. Fishing periods are from 7:00 a.m. to 1:00 p.m. on Mondays only and the harvest may not exceed 12,500 king salmon per year. Legal gear is a single 35 fathom net with a 1,200 foot separation between nets, double the normal distance. Because the fishery is only open for a single six hour period per week, effort and harvest are low. Most fish are generally caught on flood tides and a single six hour period does not always encompass a flood tide. This fishery was created in 1986 and effort peaked in 1992, with 125 permit holders participating in the fishery. In 1993, regulations were passed requiring set gillnetters to register prior to fishing for one of three areas – either the Northern District, the west side of Cook Inlet, or the Upper Subdistrict of the Central District. Once a permit holder registered for one of these areas, she/he may not change to another area until the following year. This regulation resulted in a dramatic decline in effort in the Northern District king salmon fishery, with approximately 30 permit holders now fishing. Harvests have also declined steadily from nearly 14,000 in 1986 to less than 1,000 in 2003.

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal seeks to lengthen the fishing periods to 12 hours from 7:00 a.m. to 7:00 p.m. on Mondays. All other provisions of the plan would remain the same.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? The additional hours would provide more opportunity to the Northern District set gillnetters, however they are fishing within an existing harvest cap of 12,500 king salmon.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Rick Jewell

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. Allow the Northern District set gillnet fishery to fish a flood tide in the May and June king salmon fishery. Currently we are allowed to fish a six-hour period only on Mondays which has resulted in spurious and declining catches.

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: When this plan went into effect we were given a harvest cap of 12,500 kings. Since the early years of the fishery we have not even come close to that cap because additional restrictions have been put in place. This fishery should be restructured to allow us the harvest already allocated in the plan.

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: This request is not allocative because we have already been granted the allocation of 12,500 kings and all escapement goals are being exceeded by wide margins. The sport fishery has been liberalized by emergency order the last two years, so there are additional fish available which we cannot harvest unless the gillnet fishery is also liberalized.

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 21.366(2). Northern District King Salmon Management Plan. Fishing periods are from 7:00 a.m. to 7:00 p.m. [1:00 pm] on Mondays.

Another option is to fish during floods only or add a second period on Thursdays.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. If we wait until the regular cycle we will miss yet another year of good king fishing where many surplus to escapement are available.

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. Has not been considered previously.

Submitted By: Rick Jewell

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #19

PRESENT SITUATION: Prior to statehood, the closed water markers at Packers Creek were placed one statute mile from the terminus of Packers Creek. During the fishing season in 1998, the Packers Creek markers were found by the department to be placed incorrectly. The north marker, in particular, was approximately one-half mile closer to the stream terminus than described in regulation. It is unknown who placed the markers in this location, but the best available information indicates the markers have been in the incorrect location for over 20 years.

After determining the markers were closer to the stream than regulations specified, the department moved them to approximately one mile from the terminus as measured in a straight line from a point on both sides of the creek. This move resulted in the elimination of six set gillnet sites on the north side of the creek that had evidently been fishing for years, but had no shore-fishery leases assigned.

As a result of the department moving this marker in 1998, an agenda change request was submitted in 1999 by the fisherman in the disputed area. The BOF accepted this ACR and took regulatory action moving these markers and re-describing the closed water area. The closed area was reduced by approximately 0.4 mile on the north side of the creek and by a negligible amount on the south side. This essentially returned the closed water markers to the location they had occupied prior to the department moving them in 1998.

The marker on the north side of the creek is the greatest point of contention in this matter due to a small point located inside of the one mile closed area. Fish aggregate behind this point waiting to move into the river on a flooding tide. In normal closed water measurements this point would be ignored and a straight line of one mile used to delineate the closure. Since this area was opened in 1999 there are 6 set net locations which have been leased through the DNR Shore Fisheries Lease Program. These leases became effective in May of 2002. If the markers are relocated again, as called for in the petition, these leases will be voided. The placement of this north side marker is approximately ½ mile closer to the creek than the location described in regulation since around 1925. However, the current line is approximately the same line that was used for many years prior to the discovery in 1998 that it was out of conformance with regulations. The current management approach is a conservative one with limited regular and extra periods. Based on our experience during the many years the line was in approximately the same location and our conservative management strategy, the risk of threatening the resource by leaving the line in its present location is, in the department's view very low

WHAT THE PROPOSAL SEEKS TO CHANGE: This proposal would return the Packers Creek markers to their historical position.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? No.
2. Does the proposal correct an error in regulation? No.

3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? No.
5. Does the department have new information with respect to the allocative nature of this proposal? No.

ADDITIONAL INFORMATION: None.

PROPOSED BY: David Chessik

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 1999 the Board of Fisheries took up an agenda change request to change the long-standing definition of closed waters around Packers Creek. The board members intended to place the closed water marker in its original and historical location, but due to receiving false, untruthful and fraudulent information, the board failed in its intent.

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: The board intended to place the closure marker in its original and historical location, but erred due to getting false information.

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

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: The marker has been moved ½ mile closer to the terminus of Packers Creek than its original and historical location. This impacts Packers Creek escapement, which has been falling short and dwindling. This same issue was accepted as an agenda change request in 1999.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. Information that is new to the board includes maps and documents from the National Archive which clearly demonstrate the original and historical location of the closure marker, and deposition authenticated documents from the prior owner of the beach sites showing how the marker got moved inappropriately.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. 5 AAC 21.350(6). Closed waters.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. The current situation represents a threat to the future of Packers Creek. Plus, it is extremely unfair to the other stakeholders who rely on the creek.

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

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 has not been heard before. An ACR concerning Packers Creek closed waters was accepted in 1999 to change the

closed water regulations which had been in place since 1924, to allow for six beach sites found fishing in closed water.

Submitted By: David Chessik

STAFF COMMENTS ON AGENDA CHANGE REQUEST: #24

PRESENT SITUATION: The North Pacific Fishery Management Council (NPFMC) has proposed to rationalize Gulf of Alaska groundfish fisheries.

While all groundfish fisheries occurring in state waters are under state management, the State of Alaska has an active management program for only a few groundfish stocks. The state establishes catch quotas (GHLs) for state-waters Pacific cod, sablefish and Prince William Sound walleye pollock. The state also has active management for Gulf of Alaska black rockfish and lingcod.

For most groundfish species the state establishes a parallel fishery, which generally operates in tandem with federal fishery rules. For these groundfish fisheries the state's management is linked to the federal catch quotas (TACs) and vessels may participate in either state waters, federal waters or both, depending upon licensing. This allows vessels fishing inside state waters to access fish accounted for under the federal TAC. Opening state waters allows the effective harvesting of the fishery resource because many stocks targeted by harvesters occur in state and federal jurisdiction and in some cases a significant portion of the overall federal TAC is harvested within state waters.

The Council's preferred alternatives for groundfish rationalization all include some form of privatization of the groundfish resource, which would include a direct allocation of federal total allowable catch (TAC) to individuals or cooperatives. The NPFMC's proposed rationalization program cannot occur unless and until the State of Alaska moves forward on a program within state waters that curtails the current race for fish in state waters for groundfish fisheries operating in tandem with federal rules. A rationalized federal fishery accomplishes little if unregulated effort within state waters proceeds under status quo

Harvest policies for fish stocks and fisheries that occur both in state and federal waters need to be coordinated between the state and NPFMC. The NPFMC has no authority to rationalize fisheries within 0-3 nautical miles and that responsibility falls to the state. And, while focus thus far has been primarily upon the possible relationship between federal rationalization efforts and the parallel fisheries in state waters, the state's actively managed groundfish fisheries could also incur impacts as a result of a federal groundfish rationalization program. The Board may need to adjust management plans for those fisheries as well.

Federal groundfish rationalization is proposed for waters of the West Yakutat portion of the Eastern Gulf of Alaska, and the Central and Western Gulf of Alaska federal regulatory areas. The state's corresponding groundfish management areas potentially impacted by federal groundfish rationalization are the Prince William Sound, Cook Inlet, Kodiak, Chignik and South Alaska Peninsula Areas. The state's three-year BOF meeting cycle considers the South Alaska Peninsula Area finfish issues during the 2003/04 cycle; Cook Inlet, Kodiak, and Chignik finfish issues during the 2004/05 cycle, and the Prince William Sound Area finfish issues during the 2005/06 meeting cycle.

WHAT THE PROPOSAL SEEKS TO CHANGE: In the context of groundfish rationalization, ACR #24 seeks to engage the Board of Fisheries on options to address state-waters management of groundfish fisheries.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST CRITERIA AS THEY RELATE TO THIS REQUEST:

1. Is there a fishery conservation purpose or reason? Yes.
2. Does the proposal correct an error in regulation? No.
3. Does the proposal correct an effect on a fishery that was unforeseen when a regulation was adopted? No.
4. Is this proposal predominately allocative in nature? Yes.
5. Does the department have new information with respect to the allocative nature of this proposal? The Department of Law and the Department of Fish & Game are assessing options for state-waters management of groundfish for the Board to consider in conjunction with actions proposed by the NPFMC.

ADDITIONAL INFORMATION: Under 5 AAC 39.999 (b), “the board will, in its discretion, change its schedule for consideration of proposed regulatory changes as reasonably necessary for coordination of state regulatory action with federal fishery agencies, programs, or laws.” This ACR requests such coordination between pending federal fishery action and state fishery regulations.

PROPOSED BY: North Pacific Fishery Management Council

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 purpose of this request is to allow the board to fully consider a range of options for managing state water and parallel fisheries under a proposed rationalization program for federal groundfish fisheries in the Gulf of Alaska (GOA) and recommend a preferred management approach.

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: A main objective for joint consultation is for fishery conservation, as fish and fishermen routinely cross state and federal boundaries. Observer coverage, recordkeeping and reporting, and enforcement are critical components of any fishery management plan. Monitoring of any coincident fisheries catch, whether as a target or bycatch, of groundfish, halibut, or crab will need to be accounted in the proposed rationalization program.

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: Additional entry into the state parallel fisheries would mitigate the benefits of rationalized federal fisheries and the potential allocation of a percentage of the federal groundfish quotas to either state water or parallel fisheries would decrease individual allocations of the remaining available quotas to federal fishery participants. The North Pacific Fishery Management Council is considering the inclusion of state-licensed fishermen who do not hold federal permits as recipients of catch history, along with federal license holders.

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. An excerpt from the council's June 2003 motion follows: Option 1. Status quo – Federal TAC taken in federal waters and in state waters, during a “parallel” fishery, plus state-water fisheries exist for up to 25% of the TAC for Pacific cod.

Option 2. Direct allocation of portion of TAC to fisheries inside 3 nm. No “parallel” fishery designation, harvest of remaining federal TAC only occurs in federal zone (3 – 200 nm); and council allocates _____% of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions: Suboption 1. Limited to pollack, P. cod, flatfish, and/or pelagic shelf rockfish (light and dark dusky rockfishes). Suboption 2. Limited to Western, Central GOA management areas and/or West Yakutat.

Option 3. Parallel fishery on a fixed percentage (____%) allocation of the federal TAC, to be prosecuted within state waters with additional state restrictions (e.g., vessel size, gear restrictions, etc. to be imposed by the board).

Fixed allocation for: Suboption 1. P. cod; Suboption 2. pollock; Suboption 3. All other GOA groundfish species.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Resolution of management of the parallel fisheries is necessary before the council can select a preferred alternative for rationalizing federal fisheries. Board recommendations on resolving the issue of the state and parallel fisheries is of critical importance for the development of the environmental impact statement for rationalizing GOA groundfish 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.). Federal fishery management.

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 agenda change request came out of a recommendation by the Joint Protocol Committee at its July 2003 meeting.

Submitted By: North Pacific Fishery Management Council