

ALASKA DEPARTMENT OF FISH AND GAME
Boards Support Section
P.O. Box 115526
Juneau, AK 99811-5526

Subject: Emergency Petition
Chairman Morris,

We are filing an Emergency Petition to list Alexander Creek King Salmon stocks as a Stock of Concern and correct actions taken that are hindering the reestablishment of the Alexander Creek King salmon. The Alexander Creek king salmon stocks have missed their escapement SEG (2100-6000) five out of seven years. The 2009 forecast is for less than 500 returning this year. The aerial survivals are conducted by department staff from the Palmer Office. During the last Board of Fisheries hearing for Cook Inlet, action was taken to close Alexander Creek to sports fishing due to poor returns over the last seven year that averaged just over 64% of the SEG. During the same meeting the Board approved additional fishing periods in May for Northern District commercial fishing which may be detrimental to these stocks. The lack of genetics data prevents the department from determining Alexander Creek king stocks from other king salmon stocks.

During the last Board of Fisheries hearings the action by the Board closed Alexander Creek to sports fishing, but extended the commercial fishing periods for the Northern District Set Netters from three openings to five openings for '08. Two full periods were added to the '08 season, and 1 opening in '09 and 2010. This was a scheduled 66% increase for '08, and a 33% increase for '09 and '10. This clearly conflicts with the requirement to share the burden of conservation contained in the Sustainable Salmon Management Policy.

The Board did not declare a Stock of Concern status to the Alexander Creek king salmon as required by the Sustainable Salmon Management Policy. See 5 AAC 39.222, Policy for the management of sustainable salmon fisheries. This would have required an Action Plan from the department to the board.

Due to the critical state of Chinook stocks in Alexander Creek, the fact that all retention of kings while sport fishing has been ended, and the severe degradation of habitat due to illegally introduced pike, we request that the Board of Fish waste no time in considering this petition, and that the ADF&G submit an action plan to rebuild Alexander Creek Chinook stocks.

Sincerely,
Steve Runyan
Chair

Susitna Valley Fish and Game Advisory Committee
PO BOX 1223
Willow, Alaska 99688

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF COMMERCIAL FISHERIES
DIVISION OF SPORT FISH

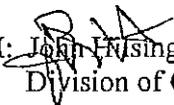
SARAH PALIN, GOVERNOR

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE: (907) 267-2105 (CF)
(907) 267-2218 (SF)

Memorandum

TO: John Jensen, Chair
Alaska Board of Fisheries

DATE: February 25, 2009

THROUGH:  John Husinger, Director
Division of Commercial Fisheries

PHONE: 267-2324

Charlie Swanton, Director 
Division of Sport Fish

PHONE: 465-6184

FROM: Jeff Regnart, Region II Regional Supervisor
Division of Commercial Fisheries

SUBJECT: Susitna Valley F&G
Advisory Committee petition to
declare Alexander Creek king
salmon a stock of concern.

James Hasbrouck, Region II Regional Supervisor
Division of Sport Fish

Action Requested

The petitioner requests that the Alaska Board of Fisheries (board) declare the Alexander Creek king salmon stock a stock of concern. The stated intent of the petition is to require the department to develop an Action Plan as required by 5 AAC 39.222., Policy for the Management of Sustainable Salmon Fisheries. The proponents argue that during the February 2008 Upper Cook Inlet Board of Fisheries meeting, actions taken by the board conflicted with the requirement to share the burden of conservation contained in the Policy for the Management of Sustainable Salmon Fisheries.

Background

The Policy for the Management of Sustainable Salmon Fisheries directs the department to provide the board, at regular meetings, with reports on the status of salmon stocks to identify any salmon stocks that present a concern related to yield, management, or conservation. For example, a "yield concern" means a concern arising from a chronic inability, despite the use of specific

management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs. The policy defines "chronic inability" as "the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time for most salmon species" (5 AAC 39.222 (f)(5)). At the October 2007 board worksession, Alexander Creek king salmon was not identified as a stock of concern. Escapements of king salmon in Alexander Creek were within the sustainable escapement goal (SEG) in 2004 and 2005, and below the SEG in 2006, 2007, and 2008.

Discussion

To grant the petition as requested, the board must make a finding of emergency under the criteria listed in 5 AAC 96.625. In subsection (f), an emergency is described as an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.

Findings of Emergency

It is ADF&G's conclusion that the criteria of an emergency under 5 AAC 96.625 (f) has not been satisfied. The low escapement of Alexander Creek king salmon in 2008 was not unexpected. ADF&G is continuing to gather information to better understand factors that affect the run strength variability of this stock and other northern bound Cook Inlet king salmon stocks.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME ALASKA BOARD OF FISHERIES

SARAH PALIN, GOVERNOR

ADF&G, Boards Support Section
P.O. BOX 115526
JUNEAU, AK 99811-5526
PHONE: (907) 465-4110
FAX: (907) 465-6094

March 9, 2009

Steve Runyan, Chair
Susitna Valley Fish and Game Advisory Committee
P.O. Box 1223
Willow, AK 99688

Dear Mr. Runyan,

The Board of Fisheries received the Susitna Valley Fish and Game Advisory Committee's emergency petition to list Alexander Creek king salmon as a stock of concern under the Sustainable Salmon Fisheries Policy (SSFP). Thank you for bringing the committee's concerns to the attention of the board and to the Department of Fish and Game.

At the board's recent meeting in Sitka, the board scheduled a discussion of the petition for the upcoming March 16-20, 2009 meeting in Anchorage. While the board may hold a discussion of the topic during the March meeting, it is limited in the actions it may take on the emergency petition for a couple of reasons.

The Sustainable Salmon Fisheries Policy (5 AAC 39.222) limits stock of concern designations to the department. As noted in the policy under paragraph 5 AAC 39.222(d)(1)(D)(ii), the department, to the extent practicable, is to provide reports to the board that include the "identification of any salmon stocks, or populations within stocks, that present a concern related to yield, management, or conservation."

Stock of concern designations from the department occur at *regular* meetings of the board, which has been interpreted as the board's regular three-year cycle agenda. The board, department, and public rely on the predictability of the normal board process which helps insure full public participation in the regulatory process. The requirement that designations start with the department and be done in the regular cycle recognize that the department would not be able to provide this kind of analysis on a yearly basis for all salmon stocks in the state.

Another factor in the board's review of the advisory committee's stock of concern listing request is that provisions of Joint Board Petition Policy (5 AAC 96.625) would not apply because the request is not for a regulatory action. Subsection (a) of 5 AAC 96.625 makes it clear that the petition policy applies to only regulatory proposals.

By way of general background, a stock of concern designation informs the board that

possible regulatory action may be needed to address a concern. Once a stock is identified by the department as presenting a concern at a regular board meeting under 5 AAC 39.222(d)(3) the board, in consultation with the department, will determine if stock concerns exist and amend or develop, by regulation, fishery management plans to address the concerns. This does not mean that the board can't take emergency regulatory actions for a fishery out of cycle based on conservation or other concerns; it just can't do it under the guise of the SSFP processes on an emergency basis or at public request unless it first amends the SSFP to provide for such a procedure.

The advisory committee is encouraged to submit proposals to change the regulations for any of the Cook Inlet Area fisheries as part of the regular three-year board meeting cycle. The board is scheduled to address Cook Inlet area fisheries during the 2010/2011 meeting cycle. Proposals for this cycle are due Friday, April 9, 2010.

Please let me know if you have any questions about the Board of Fisheries' approach to the Sustainable Salmon Fisheries Policy.

Sincerely,



Jim Marcotte
Executive Director, Alaska Board of Fisheries

cc: John Jensen, Chairman, Alaska Board of Fisheries
Denby Lloyd, Commissioner, Alaska Department of Fish and Game
John Hilsinger, Director, Commercial Fisheries, Alaska Department of Fish and Game
Charles Swanton, Director, Sport Fish, Alaska Department of Fish and Game



P.O. Box 210064 ♦ Auke Bay ♦ Alaska ♦ 99821
Phone (907) 723-0008 ♦ Fax (775) 402-7595

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MAR 09 2009

BOARD

March 9, 2009

Alaska Board of Fisheries
Board Support Section
Alaska Department of Fish and Game
Attn: Jim Marcotte
P.O. Box 15526
Juneau AK 99811-5526

Re: Petition to Change Southeast Sablefish Bag Limit

Dear Mr. Marcotte

Pursuant to AS 44.62.220 and the joint board petition policy, this is a petition for the amendment of a regulation adopted by the board Feb 26, 2009 in Sitka, specifically the daily bag limit for sablefish. The board has the authority to make this small change under AS 16.05.255 and 5AAC96.625.

The regulation the board adopted at the last moment of the meeting, after reconsidering an earlier action, was for a daily bag limit of two sablefish, a possession limit of four sablefish, and an annual limit of eight. This petition requests that the regulation be amended slightly to a daily bag limit of four, with no change in the possession and annual limits.

This petition meets the joint board's criterion that a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome because the resource would be unavailable in the future.

Justification:

I operate a lodge on a remote island near Juneau. I have developed a small niche market for my guests to catch sablefish using special sport gear and special techniques. My clients come for stays of four days during June to early September.

Weather is a major limitation on this fishery. Fishing for sablefish in 1500-2000 feet of water using a rod and reel requires keeping the boat almost stationary so the lines won't tangle and so the bait can be dropped to the bottom. It takes five to ten minutes to drop the bait down that distance, which is not possible at all in strong winds, or even light winds with strong currents. It requires skill on the part of the boat operator just to find a suitable location and to hold the boat steady, but skill cannot overcome weather and

currents. It also requires a keen eye on the part of the anglers to see the bite, which is much more difficult in choppy water conditions. Conditions for fishing sablefish occur only 50 % of the time, or less, so it is desirable to get your fish while you can. The days not fished for sablefish because of weather are spent fishing for salmon or halibut.

If a person can only take two sablefish daily, it is not likely he will reach his allowable possession limit or annual limit. The sablefish grounds are a fair distance from Juneau, so even residents will find the cost too prohibitive for only two fish, thus foregoing their available harvest. A limit of four per day will allow a small harvest to continue without increasing possession and annual limits.

The current restrictive management approach sends a negative message to our potential repeat clientele that an extreme emergency has occurred, and now a fisherman can only take two fish, whereas before it was unlimited. It will be burdensome to attract clients and maintain my business with a two fish limit.

We will certainly abide by whatever restrictions the board places on us for conservation reasons, but we don't believe an emergency has occurred that warrants taking the bag limit all the way down to two fish, since no companion measures were taken in the much larger commercial fishery which, according to Department of Fish and Game staff at the Sitka meeting, does not warrant a similar restriction. Instead an emergency situation exists which threatens only our business and the right of residents to a public resource. Relief is warranted.

Since we petition no change in the possession limit, and no change in the annual limit, a biologically allowable surplus is available that would be better accessed by a slight increase in the daily bag limit. Everyone, resident and nonresident alike, would prefer catching a possession limit of sablefish in one day instead of two. If our guests cannot harvest their allowable catch because of the bag limit restriction, or if a resident cannot harvest his or her available catch because of contingencies such as cost, weather, or other factors, a biologically allowable harvest is not available in the future, and is burdensome to all sport users.

Thank you for whatever consideration you give to this issue. We certainly hope catch data captured for the first time in the 2009 season will show the sport sablefish catch is low, certainly far, far lower than the wild table napkin projections tossed at the board in its final hour in Sitka. We look forward to working with you on this and other issues.

Sincerely,



Richard Yamada
Owner/Captain

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF FISH AND GAME

DIVISION OF SPORT FISH

PO BOX 115526
JUNEAU, ALASKA 99811-5526
PHONE: (907) 475-4210
FAX: (907) 465-2604

Memorandum

TO: John Jensen, Chair
Alaska Board of Fisheries

DATE: March 12, 2009

THROUGH: Charles O. Swanton, Director
Division of Sport Fish

PHONE: 465-6187

John Hilsinger, Director
Division of Commercial Fisheries

FROM: Rob Bentz, Deputy Director
Division of Sport Fish

Sue Aspelund, Deputy Director
Division of Commercial Fisheries

SUBJECT: Petition to Change Southeast Sablefish Bag Limit

Action Requested

The petitioner requests that the Alaska Board of Fisheries (board) amend the regulatory action it took at the Southeast Finfish meeting in February 2009. The final action established a sablefish bag limit of two fish, a possession limit of four fish, and an annual limit of eight fish. The petitioner requests that the sablefish bag limit be increased to four fish.

To grant the petition as requested, the board must make a finding of emergency under the criteria listed in 5 AAC 96.625.

Background

During the February 2009 Southeast Finfish meeting in Sitka, the board addressed sablefish bag, possession, and annual limits, whereby establishing a sablefish bag limit of four fish, a possession limit of eight fish, and an annual limit of 12 fish. During deliberations department staff stated that harvest estimates within the sport fishery were currently unknown. Staff also stated that survey and biomass data for the Chatham Strait sablefish suggest that the stock is in a period of significant decline and the department has taken very conservative management actions in the commercial fishery.

On the last day of the meeting the board reconsidered its decision on sablefish regulations and passed a regulation lowering the limits to a bag limit of two fish, a possession limit of four fish, and an annual limit of eight fish.



Discussion

To grant the petition as requested, the board must make a finding of emergency under the criteria listed in 5 AAC 96.625. In subsection (f), an emergency is described as an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action, and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.

The petitioner asserts that a biologically allowable resource harvest would be precluded by delayed regulatory action, and such delay would be significantly burdensome because the resource would be unavailable in the future for the following three reasons: 1) since wind/ocean conditions favorable to sport fishing for sablefish only occurs 50% of the time (or less), an angler is not likely to reach their possession or annual limit under a 2 fish daily bag limit scenario, and therefore, a biologically allowable harvest is not available in the future; 2) an emergency has not occurred that warrants reducing the sport fish daily bag limit to two fish where previously there was no limit, given there were no companion measures proposed to be taken in the commercial fishery; and 3) the action taken by the board sends a negative message to repeat clients and will be problematic towards attracting new clients to maintain a business under a two fish daily bag limit scenario.



Finding of Emergency

Adoption of bag, possession, and annual limit sport fishing regulations for sablefish have not created an unforeseen, unexpected event that threatens a fish resource, and have not led to an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action. Anglers will have to fish twice as many days to reach their annual limit with a bag limit of two sablefish rather than a bag limit of four. However, this does not mean that a biologically allowable harvest is not available in the future.

Therefore, it is the department's conclusion that the conditions for a finding of emergency under 5 AAC 96.625 (f) have not been satisfied by this petition.

cc: Brian Frenette
Scott Kelley
Bob Chadwick
Cleo Brylinsky



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MAR 13 2009Petition to the Alaska Board of Fisheries

BOARDS

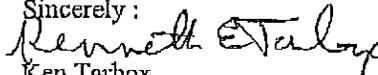
I hereby petition the Board to address the departments repeated failure to follow the following regulations: 5 AAC 39.222. Policy for the management of sustainable salmon fisheries and 5 AAC 39.223. Policy for statewide salmon escapement goals. In a memorandum dated January 15, 2008 the department responded to a complaint raised over the establishment of an SEG threshold for the Anchor River even though data existed that allowed for a BEG to be set as required in regulation 5 AAC 39.222 and in the federal MSA. In their response to this inquiry the department documented 33 Sustainable Escapement Goal Thresholds which are illegal on their face and cite the department of Law opinion that they can set goal types other than the goals in the Policy for the management of sustainable salmon fisheries. I would contend that this is not the case and in fact that if a SEG is set it must be of the form quoted from regulation below, "stated as a range". The text below is quoted directly from regulation with the important part of the regulation in italic, bold and underlined for emphasis nothing else has been added.

5 AAC 39.222. Policy for the management of sustainable salmon fisheries

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated due to the absence of a stock specific catch estimate; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board, and will be developed from the best available biological information; **the SEG will be determined by the department and will be stated as a range that takes into account data uncertainty; the department will seek to maintain escapements within the bounds of the SEG;**"

This situation rises to the level of an emergency because it was unforeseen and unexpected event that may threaten a resource. This goal type has already been rejected by the Board in 2002 on two separate occasions. It was unforeseen that both the Department of Fish and Game and Department of Law would have ignored these rejections of this method and simply pushed them through. If the department wanted an additional type of escapement goal "SEGT" they have had ample time to follow the process and submit a proposal so the ramifications of these actions could again have been debated in a public as well as in the scientific forum so the allocative, biological and social aspects of these changes could have been addressed. Instead they have slipped them in ad hoc, under the "press of the agenda" in anything but the transparent public process this governor has promised. The majority of these goals have been set using a subjective risk analysis method that is not published, not peer reviewed and may not even be scientifically defensible. The simplest solution to this problem is to delete all 33 SET thresholds and any others recently added from the escapement goal reports and regulations and require the department to resubmit them in legal form during the next regular cycle for each area.

Sincerely :



Ken Tarbox

Soldotna Alaska

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ALASKA DEPARTMENT OF FISH AND GAME

DIVISION OF SPORT FISH

MEMORANDUM

TO: Distribution

DATE: January 15, 2008

FROM: Charles O. Swanton
Director
Sport Fish Division
And
John Hilsinger
Director
Division of Commercial Fisheries

TELEPHONE: 465-6184;267-2324

SUBJECT: Sustainable Escapement Goal
Thresholds

The department has established 33 Sustainable Escapement Goal (SEG) thresholds across the state (see attached spreadsheet) for all five species of Pacific salmon as follows: coho-3; chum-12; king-7; pink-7; and sockeye-4. The spreadsheet lists the area, specific stock, species, threshold value, and the method used to determine the threshold. It also describes the regional escapement goal review team recommendations for establishing the SEG threshold and the cited reference document.

Commissioner Lloyd asked us to explain how we justified these SEG thresholds: 1) biologically; 2) with regard to fishery management; and 3) with respect to regulations 5 AAC 39.222. Policy for the Management of Sustainable Salmon Fisheries (sustainable salmon fisheries policy - SSFP) and 5 AAC 39.223. Policy for Statewide Salmon Escapement Goals (escapement goal policy - EGP).

Since SEG thresholds are primarily precautionary against changes in productivity, harvest rate, or both to a non-targeted stock, they encompass both 1 and 2 explicitly. SEG thresholds guard against a change in productivity of a stock (a biological attribute) and/or a change in harvest rate (a fishery management attribute). While not explicitly specified in the SSFP or EGP, SEG thresholds implicitly meet the SSFP criteria of sustained yield (of the target stocks) and precaution in the face of uncertainty (setting escapement goals on non-targeted stocks is by definition precautionary). The SEG thresholds also explicitly address the SSFP criterion of "salmon escapement and harvest management decisions being made in a manner that protects non-target salmon stocks or species"

The regional escapement goal review teams advise that SEG thresholds be used when:

1) the department has limited data on escapements, but the manager wishes to set a goal as a precaution against either an increase in harvest rate and/or a decrease in production of the stock. The manager does not actively manage to the SEG threshold in this case, but observes escapements from current management practices and only considers a management action if escapements are chronically lower than the threshold. Although only one of many methods, the risk analysis method is used to calculate the probabilities of observing a series of lower than threshold escapements from past escapements observed using current management practices. Harvest rates are thought to be low in this case;

2) the department cannot scientifically justify an upper end to a SEG range. This is because we have escapement data only and do not know the harvest rate (e.g., some mixed stock fisheries). If we set an upper bound to the goal using only the escapement data and harvest rates are actually very low, then the upper bound of the goal may not be sustainable (i.e., does not produce yields), so we set the lower bound only. Moreover, going over the upper end of the goal on this stock would not trigger a management action since the management action would also (erroneously) affect the larger stocks that are more

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Memo0801-Sustainable Escapement Goal Thresholds

rigorously managed. These are usually small stocks that are part of a larger mixed stock fishery and the small stock receives the same management actions taken on other larger stocks. Again, the manager does not actively manage to the SEG threshold in this case, but observes escapements from current management practices and only considers a management action if escapements are chronically lower than the threshold; or

3) there is not enough fishing power (commercial and/or sport) available or practical to fish the stock down to a SEG range. Even if the fishery were opened all the time, we cannot make people come and fish. In this case it makes no practical sense to set an upper range even if we knew what it should be.

An SEG threshold for Anchor River king salmon was developed largely for reason 1), and somewhat, reason 3) as described above. The department has limited data on escapements based on weir and sonar data, and it is unknown if the recent escapement data is representative of total escapements as indexed previously by aerial survey. However, the low harvest rates observed on this stock in recent years prompted the department to develop an escapement goal that would allow for a cautious incremental increase of harvest through liberalization of sport fishing regulations. This cautious approach was also preferred by the public as evident by the testimony at the recent Lower Cook Inlet Board of Fisheries meeting. The department does not plan to actively manage to the SEG threshold in this case, but rather document escapements from current management practices, evaluate the degree that fishery liberalizations implemented by the Board of Fisheries increase harvest rates, and consider management action only if escapements will likely be lower than the threshold.

The regional escapement goal review teams recommend that the department continue to rely on these same reasons for setting SEG threshold escapement goals in the future. SEG thresholds remain the best tool for setting precautionary reference points for non-targeted stocks, so that targeting of stocks can continue with low risk of loss of sustainability of the non-targeted stock.

Department staff also asked Department of Law (DOL) staff for their interpretation on the legality of setting SEG thresholds instead of any of the other types of escapement goals specifically cited within the SSFP and EGP. The DOL responded with "The fact that SEG Thresholds are not expressly defined in 5 AAC 39.222 (SSFP) does not mean the department cannot use them for escapement goal purposes. There is nothing in the SSFP that mandates that the department only manage according to defined escapement goals."

DOL continued with "Nor is there any provision in 5 AAC 39.223 (EGP) that mandates management of salmon escapement only to the goals defined in the SSFP. Rather, in the EGP, the Board simply 'recognizes the department's responsibility to' establish escapement goals; it does not mandate any particular action."

The department believes it is justified in establishing SEG threshold escapement goals based on the information described above, and DOL agrees. We will continue to review and refine salmon escapement goals and select the most appropriate type of goal that ensures protection and sustainability of these resources into the future.

Distribution: Lloyd, Bedford, P. Nelson, Bentz, Marcotte, Cain, Regnart, Hasbrouck, L.Nelson (DOL).

Attachment: (1).

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BOARDS

Petition to the Alaska Board of Fisheries

I hereby petition the Board to clarify for the department their Emergency Order Authority under Sec. 16.05.060 and 5 AAC 75.003. Under Sec. 16.05.060 the commissioner is vested with time and area emergency order authority to manage fisheries by the legislature. A second provision of that statute allows changes to "sport fish bag limits and methods and means of sport harvest **only under criteria adopted by the Board of Fisheries.**" Given the numerous illegal emergency orders increasing bag limits where no escapement goal exists, altering bag limits that are adopted in a management plan, reduced to no retention instead of closing when the escapement goal will not be achieved and many more violations it is obvious this regulation is confusing to some departmental staff and must be clarified. In a memo dated September 23, 2008 on page 7 the department admits that they are confused, "that the regulation is not clearly written, has internal inconsistencies and causes future uncertainty". (SEE Attached EO's samples and explanation, samples are not all inclusive, 2-KS-2-08-08, 2-SS-2-26-08, 2SS-2-36-07, 2-SS-2-37-07, 2-RS-4-10-08, 2-KS-4-11-08, 2-KS-4-02-08, 2-KS-4-01-09, 2-RS-7-06-08, 2-KS-4-01-08, 1-RS-B-26-08, 1-RS-H-23-08) At the 2008 BOF meeting the Board passed a proposal to allow the department to lower the bag limit on the Kenai River to one fish rather than totally closing or going to catch and release. This was a result of the department being challenged on the illegal use of their E.O. authority which states that 5 AAC 75.003 "Emergency orders can not supersede bag and possession limits or methods and means established in a regulatory management plan established by the Board of Fisheries". In this case the department lowered the bag limit to one fish even though the plan called for either catch and release only or total closure if the goal was not being achieved or three fish or six fish bag limits if it was being achieved. While passage of this proposal did remedy this situation in 2008 even after this problem was brought to the departments attention they continue to issue illegal "closed to retention" emergency orders which is another name for catch and release when failing to meet the escapement goal and alter bag limits even though the bag limit is established in a regulatory management plan established by the Board of Fisheries.

The situation that this petition seeks to rectify is an emergency because the department continues to issue illegal emergency orders in circumvention of state statues and regulations which alter allocations already established and allow harvests of fish which are needed for escapement. This is certainly an unforeseen, unexpected event that threatens a resource. The clarification I would suggest is:

5 AAC 75.003. Emergency order authority

☞ The commissioner may, by emergency order, change bag and possession limits and annual limits and alter methods and means in sport fisheries. These changes may not reduce the allocation of harvest among other user groups. An emergency order may not supersede bag and possession limits or methods and means established in regulatory management plans established by the Board of Fisheries. The commissioner will use emergency order authority to manage sport fishing harvest and opportunity in the following circumstances:

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(a) If the total escapement of a species of anadromous fish is projected to be less than the escapement goal for that species listed in management plans that have been adopted by the Board of Fisheries or established by the department the commissioner or an authorized designee will close or reduce the sport fishery to the degree necessary in any of the following circumstances:

(1) The commissioner or an authorized designee may decrease sport fish bag, [AND] possession limits, [AND] annual limits, [AND] or restrict methods and means of harvest by emergency order in any combination, when those actions change the escapement projection to be within the escapement goal range as established.

(2) The commissioner or an authorized designee may issue a "catch and release only" emergency order when the final escapement is projected to be within the escapement goal range and the estimated hooking mortality is not projected to reduce the population of fish below the escapement goal or, in the case of resident species, below the level required for maintenance of the desired age and size distribution of the population. Any fish caught will be released immediately without further harm and prohibit removal from the water of said fish;

(3) The commissioner or an authorized designee will close the sport fishery and require any fish inadvertently hooked to be released immediately without further harm and prohibit removal from the water of said fish if the final escapement is not projected to be within the established escapement goal range.

[(A) THE TOTAL ESCAPEMENT OF A SPECIES OF ANADROMOUS FISH IS PROJECTED TO BE LESS THAN THE ESCAPEMENT GOAL FOR THAT SPECIES LISTED IN MANAGEMENT PLANS THAT HAVE BEEN ADOPTED BY THE BOARD OF FISHERIES OR ESTABLISHED BY THE DEPARTMENT; OR]

[(B) THE RECREATIONAL HARVEST MUST BE CURTAILED IN ANY FISHERY FOR CONSERVATION REASONS; THE DEPARTMENT MAY ISSUE A "CATCH AND RELEASE ONLY" EMERGENCY ORDER WHEN THE ESTIMATED HOOKING MORTALITY IS NOT PROJECTED TO REDUCE THE POPULATION OF FISH BELOW THE NUMBER REQUIRED FOR SPAWNING ESCAPEMENT OR, IN THE CASE OF RESIDENT SPECIES, BELOW THE LEVEL REQUIRED FOR MAINTENANCE OF THE DESIRED AGE AND SIZE DISTRIBUTION OF THE POPULATION; "CATCH AND RELEASE" AS A TOOL TO ADDRESS CONSERVATION UNDER THIS SECTION SHALL BE LABELED "CONSERVATION CATCH AND RELEASE" TO DIFFERENTIATE FROM CATCH AND RELEASE REGULATIONS ADOPTED BY THE BOARD OF FISHERIES FOR SPECIAL MANAGEMENT TO CREATE DIVERSITY IN SPORT FISHERIES.]

(The remainder of the regulation is unchanged and has not been included in this petition statement but should be left in regulation)

Sincerely :

Kenneth E Tarbox

Ken Tarbox

Soldotna, Alaska

Examples of illegal issues with emergency orders:

2-KS-2-08-08 Escapement goal is 13,000 to 28,000 and the projected **final** escapement in the justification statement is 1,146. Clearly this fishery should have been closed and not simply reduced to no bait. Eight days later it was finally closed but the goal was not achieved.

2-SS-2-26-08 There are numerous violations in this emergency order. First the bag limit was raised on the Little Susitna River on August 16 with a count of 1,728, and a final count of 18,400, less than a thousand fish over the upper range of the goal, which is hardly justification to violate the established management plan 5 AAC 60.170 which states a two fish bag limit and also violates emergency order authority 5 AAC 75.003 "An emergency order may not supersede bag and possession limits or methods and means established in regulatory management plans established by the Board of Fisheries". In addition the bag limit was raised on Fish, Wasilla and Cottonwood Creeks none of which have an escapement goal and therefore there is no legal department authority to alter the bag limit.

5 AAC 75.003

(2) The commissioner or an authorized designee may increase sport fish bag and possession limits and annual limits and liberalize methods and means of harvest by emergency order when:

(A) the total escapement of a species of anadromous fish *is projected to exceed the escapement goal for that species listed in management plans that have been adopted by the Board of Fisheries or established by the department*, if the total harvest under the increased bag and possession limit will not reduce the escapement below the escapement goal; or

2-RS-4-10-08 This eo reduces the sport fishery to nonretention. There is no such option. The regulation authorizing emergency order authority for bag limits etc. states

"1) The commissioner or an authorized designee may decrease sport fish bag and possession limits and annual limits and restrict methods and means of harvest by emergency order when

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(A) the total escapement of a species of anadromous fish is projected to be less than the escapement goal for that species listed in management plans that have been adopted by the Board of Fisheries or established by the department; or

(B) the recreational harvest must be curtailed in any fishery for conservation reasons; the department may issue a "catch and release only" emergency order when the estimated hooking mortality is not projected to reduce the population of fish below the number required for spawning escapement or, in the case of resident species, below the level required for maintenance of the desired age and size distribution of the population; "catch and release" as a tool to address conservation under this section shall be labeled "conservation catch and release" to differentiate from catch and release regulations adopted by the Board of Fisheries for special management to create diversity in sport fisheries."

The EO states the escapement goal will not be achieved, clearly the fishery should have been closed or allowed to go to catch and release only if the hooking mortality did not reduce it below the goal.

SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-KS-2-08-08

Issued at: Palmer, Thursday, June 12, 2008

Effective Date: 6:00 a.m., Saturday, June 14, 2008

Expiration Date: 11:00 p.m., Sunday, July 13, 2008 unless superseded by subsequent emergency order.

EXPLANATION:

This emergency order prohibits the use of bait in the lower portion of the Deshka River drainage beginning at 6:00 a.m., Saturday, June 14, through 11:00 p.m., Sunday, July 13, 2008. The area in which bait is prohibited is from the mouth of the Deshka River upstream to an ADF&G marker located near Chijuk Creek (river mile 17), and all waters within a one-half mile radius of the Deshka River's confluence with the Susitna River. That part of the Deshka River adjacent to the weir (300 feet upstream and downstream of the weir located at river mile 7) remains closed to fishing as noted by department regulatory markers.

REGULATION:

The provisions of 5 AAC 61.112. SPECIAL PROVISIONS AND LOCALISED ADDITIONS AND EXCEPTIONS TO THE SEASONS, BAG, POSSESSION AND SIZE LIMITS, AND METHODS AND MEANS FOR UNIT 1 OF THE SUSITNA RIVER DRAINAGE AREA. (6)(B) are superseded by this emergency order. Under this emergency order, the following provisions are effective, beginning 6:00 a.m., Saturday, June 14, through 11:00 p.m., Sunday, July 13, 2008:

5AAC 61.112. SPECIAL PROVISIONS AND LOCALISED ADDITIONS AND EXCEPTIONS TO THE SEASONS, BAG, POSSESSION AND SIZE LIMITS, AND METHODS AND MEANS FOR UNIT 1 OF THE SUSITNA RIVER DRAINAGE AREA.

(6) in the Deshka River drainage, including Trapper Lake,

(B) from its mouth upstream to ADF&G regulatory markers near Chijuk Creek (river mile 17), and in all waters within a one-half mile radius of its confluence with the Susitna River, king salmon 20 inches or greater in length may be taken January 1 - July 13; from September 1 - July 13, only unbaited, artificial lures may be used; from July 14 - August 31, bait may be used; the remainder of the drainage is closed from January 1 - December 31 to sport fishing for king salmon;

Denby S. Lloyd,
Commissioner

By delegation to:

Dave Rutz,
Area Management Biologist

Emergency Order Number 2-KS-2-08-08

June 12, 2008

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JUSTIFICATION:

The biological escapement goal (BEG) for king salmon in the Deshka River is 13,000 to 28,000 fish, as measured at the weir located at river mile seven. On average, approximately 25% of the escapement has passed the weir by June 12. Normally by this date approximately 7,400 king salmon have passed the weir; at this time only 234 fish have passed the weir and the total escapement is projected to be approximately 1,146 fish. Based upon late-run timing, the total escapement projection of 3,000 to 4,000 fish remains far below the escapement goal. As provided by 5 AAC 75.003. EMERGENCY ORDER AUTHORITY (1)(A), the department may, by emergency order, decrease sport fish bag and possession limits and annual limits and restrict methods and means of harvest when the total escapement is projected to be less than the escapement goal. Therefore, it is warranted to prohibit the use of bait for king salmon fishing in the Deshka River.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region 2 Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

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SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-SS-2-26-08

Issued at: Palmer, Thursday, August 14, 2008

Effective Date: 12:01 a.m., Saturday, August 16, 2008

Expiration Date: 11:59 p.m., Wednesday,
December 31, 2008, unless superseded by
subsequent emergency order.

EXPLANATION:

This emergency order increases the daily bag limit of coho salmon from two per day to three per day in those waters open to fishing for salmon (other than king salmon) in waters of the Knik Arm drainage, excluding Jim Creek, commencing at 12:01 a.m., Saturday, August 16, through December 31, 2008. Some of the more popular streams in this area include the Little Susitna River and Fish, Wasilla, and Cottonwood creeks.

REGULATION:

The provisions of 5 AAC 60.120 (2)(A) GENERAL PROVISIONS FOR SEASONS, BAG, POSSESSION, AND SIZE LIMITS, AND METHODS AND MEANS FOR THE KNIK ARM DRAINAGE AREA are superseded by this emergency order. Under this emergency order, the following provisions are effective, beginning 12:01 a.m., Saturday, August 16, through 11:59 p.m., Wednesday, December 31, 2008:

5 AAC 60.120 (2)(A) GENERAL PROVISIONS FOR SEASONS, BAG, POSSESSION, AND SIZE LIMITS, AND METHODS AND MEANS FOR THE KNIK ARM DRAINAGE AREA.

(2) Salmon other than king salmon,

(A) 16 inches or greater in length may be taken from January 1 – December 31; bag and possession limit is three fish, of which all three may be coho salmon, excluding Jim Creek; in Jim Creek, bag and possession limit is three fish, of which only two per day and two in possession may be coho salmon;

Denby S. Lloyd,
Commissioner

By delegation to:

Dave Rutz,
Area Management Biologist

JUSTIFICATION:

The 2008 return of coho salmon to several monitored Knik Arm Management Area waters of Northern Cook Inlet appear to be strong and providing for above average recreational catch rates. As of August 13, information from a department weir on the Little Susitna River used to evaluate and index coho salmon run

Emergency Order Number 2-KS-2-08-08

June 14, 2008

Page 2 of 2

strength indicates that the coho salmon return to the Little Susitna River will likely exceed the sustainable escapement goal (SEG) of 10,100 to 17,700 fish. In addition, an exit survey conducted by State Park Service personnel in the lower river indicates that sport harvest rates for coho from the Little Susitna River appear to be above the historical average. Based upon previous studies there is a strong correlation between runs to the Little Susitna River and Fish, Wasilla, and Cottonwood creeks.

Coho salmon returning to Fish Creek are counted at a weir located upstream of Knik-Goose Bay Road, and upstream of the sport fishery. This weir is primarily operated to count sockeye salmon, therefore it is only in operation during a portion of the coho salmon return. Historically, this weir was used to also count coho salmon and there was an escapement goal of 1,200 to 4,400 fish. As of August, 13, 3,755 coho salmon had been counted past the weir and the current projected escapement of coho salmon into Fish Creek is estimated to exceed 9,000 fish.

It is not anticipated that the increased sport harvest from this emergency order will lower the escapement below desired escapement levels in Cottonwood, Fish, and Wasilla creeks, or below the lower bounds of the SEG range on the Little Susitna River.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region 2 Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-SS-2-36-07

Issued at: Palmer, Thursday, August 30, 2007

Effective Date: 12:01 a.m., Tuesday, September 4, 2007

Expiration Date: 11:59 p.m. December 31, 2007, unless superseded by subsequent emergency order.

EXPLANATION:

This emergency order prohibits the retention of coho salmon while sport fishing in all waters of the Knik Arm Management Area, excluding the Eklutna Tailrace and Fish Creek. This emergency order becomes effective at 12:01 a.m., Tuesday, September 4, 2007.

REGULATION:

The provisions of 5 ACC 60.120 GENERAL PROVISIONS FOR SEASONS, BAG, POSSESSION AND SIZE LIMITS, AND METHODS AND MEANS FOR THE KNIK ARM DRAINAGE AREA. (2)(A) are superseded by this emergency order. Under this emergency order, the following provisions are effective beginning 12:01 a.m., Tuesday, September 4, 2007:

5 AAC 60.120 GENERAL PROVISIONS FOR SEASONS, BAG, POSSESSION AND SIZE LIMITS, AND METHODS AND MEANS FOR THE KNIK ARM DRAINAGE AREA.

(2) Salmon other than king salmon;

(A) 16 inches or greater in length may be taken from January 1-December 31; bag and possession limit is three fish; coho salmon of any length may not be retained or possessed.

Denby S. Lloyd,
Commissioner

By delegation to:

Dave Rutz,
Area Management Biologist

JUSTIFICATION:

The 2007 return of coho salmon to most of the Knik Arm Management Area streams of Northern Cook Inlet appears to be below average. Both commercial and recreational catch rates have been below average as well. The Department has a weir on the Little Susitna River to evaluate coho salmon run strength. As of August 29, which is the 43 percentile of the return, only 3,098 coho salmon have passed through the weir. Based on this year's weir count, the Department is projecting a total escapement of 7,746 coho salmon, well below the escapement goal range of 10,100 to 17,700 fish. Although there are currently no weir projects to count coho salmon on other Knik Arm area streams, data from previous projects on these systems indicate that when there is a weak return to the Little Susitna River, returns to these systems are weak as well. Fishing reports received from guides and anglers fishing Knik

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**August 30, 2007
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Arm systems indicate below average returns, except for Fish Creek. Given the poor return of coho salmon to waters of the Knik Arm area of Northern Cook Inlet (NCI), it is warranted to restrict recreational fishing activity at this time. Fish Creek and the Eklutna Tailrace are excluded from this restriction because sport catch information and preliminary information from a sockeye salmon weir on Fish Creek indicate that the Fish Creek coho salmon return for 2007 is above average, and the Eklutna Tailrace is a stocked fishery.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region 2 Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

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SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-SS-2-37-07

Issued at: Palmer, Monday, September 10, 2007

Effective Date: 12:01 a.m., Tuesday, September 11, 2007

Expiration Date: 11:59 p.m. December 31,
2007.

EXPLANATION:

This emergency order rescinds emergency order No. 2-SS-2-36-07, issued in Palmer on August 30, which prohibited the retention of coho salmon while sport fishing in all waters of the Knik Arm Management Area. Anglers are now allowed to retain a bag limit of two coho salmon in waters of the Knik Arm Management Area. This emergency order becomes effective at 12:01 a.m., Tuesday, September 11, 2007.

REGULATION:

Emergency order 2-SS-2-36-07 is rescinded.

Denby S. Lloyd,
Commissioner

By delegation to:

Dave Rutz,
Area Management Biologist

JUSTIFICATION:

The count of coho salmon through the Little Susitna River weir is 13,801 as of September 9, exceeding the lower end of the escapement goal range of 10,100 - 17,700 coho salmon. Therefore, it is warranted to allow the retention of coho salmon in all of the Knik Arm drainages open to salmon fishing.

PREVIOUS EMERGENCY ORDERS AFFECTED:

Emergency order 2-SS-2-36-07, which prohibited the retention of coho salmon while sport fishing in all waters of the Knik Arm drainage from 12:01 a.m., Tuesday, September 4, 2007, through 11:59 p.m., December 31, 2007.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region 2 Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-RS-4-10-08

Issued at: Kodiak, Tuesday,
June 17, 2008

Effective Date: 12:01 a.m., Thursday, June 19, 2008

Expiration Date: 11:59 p.m., Tuesday, July
15, 2008, unless superseded by subsequent
emergency order.

EXPLANATION:

This emergency order prohibits the retention of sockeye salmon in the Karluk River drainage, including the lagoon and its outlet stream. Sockeye salmon may not be possessed or retained; sockeye salmon caught may not be removed from the water and must be released immediately.

This emergency order is effective from 12:01 a.m., Thursday, June 19, 2008, through 11:59 p.m., Tuesday, July 15, 2008.

REGULATION:

The provisions of 5 AAC 64.022 (c)(3) are added by this emergency order. Under this emergency order the following provisions are effective from 12:01 a.m., Thursday, June 19, 2008, through 11:59 p.m. Tuesday, July 15, 2008

5 AAC 64.022. WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS THE KODIAK AREA.

(c)(3) In the Karluk River drainage, including the lagoon and its outlet stream, sockeye salmon may not be retained or possessed. Sockeye salmon caught may not be removed from the water and must be released immediately. These restrictions are effective from June 19 through July 15, 2008.

Denby S. Lloyd,
Commissioner

By delegation to:

Leonard Schwarz,
Kodiak Area Management Biologist

JUSTIFICATION:

The biological escapement goal range for early run sockeye in the Karluk River is 110,000 to 250,000. As of June 15, the Karluk River sockeye salmon weir count was 195 fish. Even based on late run timing for the Karluk River, it appears that the escapement goal will not be achieved. To reduce the sport fish harvest, the sport fishery is being restricted to nonretention.

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The distribution list for this emergency order is on file at the Region 2 Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

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SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-KS-4-11-08

Issued at: Kodiak, Tuesday, June 17, 2008

Effective Date: 12:01 a.m., Thursday June 19, 2008

Expiration Date: 11:59 p.m., Friday, July 25, 2008,
unless superseded by subsequent emergency order.

EXPLANATION:

This emergency order supersedes Emergency Order No.2-KS-4-02-08 issued February 27, 2008 and prohibits the retention of king salmon in the Ayakulik River drainage. King salmon may not be possessed or retained; king salmon caught may not be removed from the water and must be released immediately. In addition, the use of bait is prohibited in the Ayakulik River drainage.

This emergency order is effective from 12:01 a.m., Thursday June 19, 2008, through 11:59 p.m., Friday, July 25, 2008.

REGULATION:

The provisions of 5 AAC 64.022. WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR THE KODIAK AREA. (a)(1)(D) are superseded by this emergency order. Under this emergency order, the following provisions are effective from 12:01 a.m., Thursday, June 19, 2008 through 11:59 p.m., Friday, July 25, 2008:

5 AAC 64.022 WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR THE KODIAK AREA.

(a) (1) (D). In the Ayakulik River drainage, king salmon may not be retained or possessed. King salmon caught may not be removed from the water and must be released immediately. Only unbaited, artificial lures may be used in the Ayakulik River drainage.

Denby S. Lloyd,
Commissioner

By delegation to:

Leonard Schwarz
Kodiak Area Management Biologist

JUSTIFICATION:

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Emergency Order Number: 2-KS-4-02-09

February 11, 2009

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The Ayakulik River biological escapement goal of 4,800 – 9,600 king salmon was not achieved in two of the past three years. The 2007 escapement of 6,400 met the spawning goal, but was less than half the previous 10-year average of 13,400 king salmon. Based on current trends and the age composition of the 2008 return, the department is anticipating another poor run in 2009. Therefore it is justified to restrict Ayakulik River king salmon sport fishing limits to one king salmon per day 20 inches in length or greater, one king salmon 20 inches in length or greater in possession, with an annual limit of two king salmon 20 inches in length or greater.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region II Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-KS-4-02-09

Issued at: Kodiak, Wednesday, February 11, 2009

Effective Date: 12:01 a.m., Monday, June 1, 2009

Expiration Date: 11:59 p.m., Saturday, July 25 2009,
unless superseded by subsequent emergency order.

EXPLANATION:

This emergency order reduces the bag and possession limit, and the annual limit for king salmon in the Ayakulik River drainage. The bag and possession limit is reduced to one king salmon 20 inches or greater in length. The annual limit in the Ayakulik drainage for king salmon 20 inches or greater in length is two. This emergency order is effective from 12:01 a.m., Monday, June 1, 2009, through 11:59 p.m. Saturday, July 25, 2009.

REGULATION:

The provisions of 5 AAC 64.022. WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR THE KODIAK AREA. (a)(1)(D) are added by this emergency order. Under this emergency order, the following provisions are effective from 12:01 a.m., Monday, June 1, 2009 through 11:59 p.m., Saturday, July 25, 2009:

5 AAC 64.022 Waters; seasons; bag, possession, and size limits; and special provisions for the Kodiak Area.

(a) (1) (D). In the Ayakulik River drainage, from June 1 – July 25, the limit for king salmon 20 inches or greater in length is one per day, one in possession. The annual limit in the Ayakulik River drainage for king salmon 20 inches or greater in length is two.

Denby S. Lloyd,
Commissioner

By delegation to:

Leonard Schwarz
Kodiak Area Management Biologist

JUSTIFICATION:

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Emergency Order Number: 2-KS-4-11-08

June 17, 2008

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The biological escapement goal range for Ayakulik River king salmon is 4,800 – 9,600. In anticipation of a poor 2008 king salmon run to the Ayakulik River, the bag and annual limit was lowered pre-season. The weir count as of June 15 was 216 king salmon, which is the lowest count on record. Based on weir counts and other information, it appears a late and potentially weak run is developing. To reduce the sport harvest of king salmon the Ayakulik River king salmon fishery is being restricted to non-retention. In addition, the use of bait is prohibited in order to reduce hooking mortality.

PREVIOUS EMERGENCY ORDERS AFFECTED:

Emergency Order 2-KS-4-02-08; which affected the Ayakulik River drainage by lowering the bag limit for king salmon 20 inches or greater in length to one per day, one in possession and an annual limit for king salmon 20 inches or greater in length of two per year.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region II Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-KS-4-01-09

Issued at: Kodiak, Wednesday, February 11, 2009

Effective Date: 12:01 a.m., Monday, June 1, 2009

Expiration Date: 11:59 p.m., Saturday, July 25, 2009,
unless superseded by subsequent emergency order.

EXPLANATION:

This emergency order establishes a non-retention sport fishery for king salmon in the Karluk River drainage, including the lagoon and its outlet stream. King salmon may not be possessed or retained; king salmon caught may not be removed from the water and must be released immediately. In addition, the use of bait is prohibited downstream of Karluk Lake.

This emergency order is effective from 12:01 a.m., Monday, June 1, 2009, through 11:59 p.m., Saturday, July 25, 2009.

REGULATION:

The provisions of 5 AAC 64.022. WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR THE KODIAK AREA. (a)(1)(C) are added by this emergency order. Under this emergency order, the following provisions are effective from 12:01 a.m., Monday, June 1, 2009, through 11:59 p.m., Saturday July 25, 2009:

5 AAC 64.022. Waters; seasons; bag, possession, and size limits; and special provisions for the Kodiak Area.

(a) (1) (C). In the Karluk River drainage, including the lagoon and its outlet stream, king salmon may not be retained or possessed. King salmon caught may not be removed from the water and must be released immediately. Only unbaited, artificial lures may be used downstream of Karluk Lake. These restrictions are effective from June 1 through July 25, 2009.

Denby S. Lloyd,
Commissioner

By delegation to:

Leonard Schwarz
Kodiak Area Management Biologist

RECEIVED TIME MAR. 13. 10:26AM

Emergency Order Number: 2-KS-4-01-09

February 11, 2009

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JUSTIFICATION:

The Karluk River biological escapement goal of 3,600 – 7,300 king salmon was not achieved in 2006, 2007 or 2008. The escapement of 730 king salmon in 2008 was the lowest count on record, and department forecast models anticipate another poor return in 2009. Therefore it is justified to restrict the Karluk River king salmon sport fishery to non-retention and prohibit the use of bait downstream of Karluk Lake. These restrictions will be in effect from June 1 – July 25, 2009.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region II Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-RS-7-06-08

Issued at: Homer, Thursday, May 29, 2008

Effective Date: 11:59 p.m., Saturday, May 31, 2008

Expiration Date: 11:59 p.m., Thursday, July 31, 2008, unless superseded by subsequent emergency order.

EXPLANATION:

This emergency order closes all waters of the English Bay River drainage and Port Graham Subdistrict to the retention of sockeye salmon from 11:59 p.m., Saturday, May 31, 2008, through 11:59 p.m., Thursday, July 31, 2008.

REGULATION:

The provisions of 5 AAC 56.122 SPECIAL PROVISIONS AND LOCALIZED ADDITIONS AND EXCEPTIONS TO THE SEASONS, BAG, POSSESSION, AND SIZE LIMITS, AND METHODS AND MEANS FOR THE KENAI PENINSULA AREA (a)(7)(A) are superceded by this emergency order and the provisions of 5 AAC 58.022 WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR COOK INLET - RESURRECTION BAY SALTWATER AREA (b)(2)(E) are added by this emergency order. Under this emergency order, the following provisions are effective, beginning 11:59 p.m., Saturday, May 31, 2008, through 11:59 p.m., Thursday, July 31, 2008:

5 AAC 56.122 SPECIAL PROVISIONS AND LOCALIZED ADDITIONS AND EXCEPTIONS TO THE SEASONS, BAG, POSSESSION, AND SIZE LIMITS, AND METHODS AND MEANS FOR THE KENAI PENINSULA AREA

(a)(7) English Bay River drainage:

(A) The English Bay River from its mouth, including the lagoon, upstream to Lower English Bay Lake, from May 31 - July 31, is fly-fishing-only water; and is closed to the retention of sockeye salmon. Sockeye salmon may not be retained or possessed.

5 AAC 58.022 WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR COOK INLET - RESURRECTION BAY SALTWATER AREA

(b)(2)(E) The Port Graham Subdistrict, including all waters east of the longitude of Point Bede at 151° 59.40 and south of the latitude of Point Pogibshi at 59° 25.47, is closed to the retention of sockeye salmon. Sockeye salmon may not be retained or possessed.

Denby S. Lloyd,
Commissioner

By delegation to:



Nicole J. Szarzi
Fisheries Biologist III

Emergency Order Number 2-RS-7-06-08**May 29, 2008****Page 2 of 2****JUSTIFICATION:**

The 2008 preseason forecast for sockeye salmon returning to the English Bay lakes in the Port Graham Subdistrict of the Southern District is 3,091 fish. This is less than the lower end of the established sustainable escapement goal (SEG) range of 6,000 – 13,500 for this system. As a result, all returning fish will likely be required for spawning escapement, and no harvestable surplus is expected. Based on traditional run timing for this stock, beginning in late May, closure of fisheries targeting these fish in area waters is prudent to protect them for escapement purposes. Therefore, all waters of Port Graham Subdistrict and the English Bay drainage will be closed to both subsistence and sport fishing beginning 11:59 p.m., Saturday, May 31, 2008; additionally, these waters will not open to commercial salmon set gillnet fishing at the beginning of June as set forth in regulation. Escapement at the English Bay River weir will be monitored to assess run strength, but reopening of these fisheries is unlikely unless the actual sockeye return is considerably stronger than projected and escapement requirements are met or can be projected to be met.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region 2 Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

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SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-KS-4-01-08

Issued at: Kodiak, Wednesday, February 27, 2008

Effective Date: 12:01 a.m., Sunday, June 1, 2008

Expiration Date: 11:59 p.m., Friday, July 25, 2008,
unless superseded by subsequent emergency order.

EXPLANATION:

This emergency order establishes a non-retention sport fishery for king salmon in the Karluk River drainage, including the lagoon and its outlet stream. King salmon may not be possessed or retained; king salmon caught may not be removed from the water and must be released immediately. In addition, the use of bait is prohibited downstream of Karluk Lake.

This emergency order is effective from 12:01 a.m., Sunday, June 1, 2008, through 11:59 p.m., Friday, July 25, 2008.

REGULATION:

The provisions of 5 AAC 64.022. WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR THE KODIAK AREA. (a)(1)(C) are added by this emergency order. Under this emergency order, the following provisions are effective from 12:01 a.m., Sunday, June 1, 2008 through 11:59 p.m., Friday, July 25, 2008:

5 AAC 64.022 WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR THE KODIAK AREA.

(a) (1) (C). In the Karluk River drainage, including the lagoon and its outlet stream, king salmon may not be retained or possessed. King salmon caught may not be removed from the water and must be released immediately. Only unbaited, artificial lures may be used downstream of Karluk Lake. These restrictions are effective from June 1 through July 25.

Denby S. Lloyd,
Commissioner

By delegation to:

Leonard Schwarz
Kodiak Area Management Biologist

JUSTIFICATION:

RECEIVED TIME MAR. 13. 10:26AM

Emergency Order Number: 2-KS-4-01-08**February 27, 2008****Page 2 of 2**

The Karluk River biological escapement goal of 3,600 – 7,300 king salmon was not achieved in 2006 or 2007. The escapement of 1,500 king salmon in 2007 was the lowest count on record since 1975, and department forecast models predict another poor run in 2008. Therefore it is justified to restrict the Karluk River king salmon sport fishery to non-retention, and prohibit the use of bait downstream of Karluk Lake. These restrictions will be in effect from June 1 – July 25, 2008.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region II Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218.

SPORT FISHING

Emergency Order

Under Authority of AS 16.05.060

ALASKA DEPARTMENT
OF FISH & GAME

Emergency Order No. 1-RS-B-26-08

Issued at Craig, Tuesday, July 29,
2008

Effective 12:01 a.m.
Date: Friday, August 1, 2008

Expiration Date: 11:59 p.m. Wednesday,
December 31, 2008. Unless superseded by
subsequent emergency order.

EXPLANATION:

This emergency order closes all waters in the Karta River drainage on Prince of Wales Island to the harvest of sockeye salmon. All sockeye salmon caught must be released immediately.

REGULATION:

The provisions of 5 AAC 47.023 Special provisions for seasons, bag, possession, and size limits, and methods and means for the fresh waters of the Southeast Alaska Area (k)(2)(B) are added by this emergency order. Under this emergency order the following provisions are effective:

5 AAC 47.023 Special provisions for seasons, bag, possession, and size limits, and methods and means for the fresh waters of the Southeast Alaska Area.

(k) In the Prince of Wales Island vicinity:

(2) In the Karta River drainage, including Karta Lake and Salmon Lake,

(A) only unbaited, single-hook, artificial lures may be used;

(B) the retention of sockeye salmon is prohibited; all sockeye salmon must be released immediately;

Denby S. Lloyd
Commissioner

By delegation to:

Steven McCurdy
Prince of Wales Area Management Biologist

JUSTIFICATION:

The number of sockeye salmon counted through the Karta River weir as of July 25, 2008 is 17 fish. At this same date in 2005 and 2006, 7,742 and 3,026 sockeye salmon had been passed through the weir respectively, which represents 74% to 28% of the entire escapement of sockeye salmon for those two years. Because of the low projected escapement, a closure of the sockeye salmon sport fishery is necessary to protect the Salmon Lake sockeye population.

DISTRIBUTION:

RECEIVED TIME MAR. 13. 10:26AM

Emergency Order Number 1-RS-B-26-08

July 29, 2008

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The distribution list for this emergency order is on file at the Region 1 Office of Alaska Department of Fish and Game, Division of Sport Fish, P. O. Box 110024, Douglas, AK 99811, (907) 465-4270; at the Ketchikan Area Office, 2030 Sea Level Drive, Suite 207, Ketchikan, AK 99901, (907) 225-2859; and at the Prince of Wales Island Area Office, P.O. Box 682 Craig, AK 99921, (907) 826-2498.

SPORT FISHING

Emergency Order

Under Authority of AS 16.05.060

ALASKA DEPARTMENT
OF FISH & GAME

Emergency Order No. 1-RS-H-23-08

Issued at Yakutat, Monday, July 28, 2008

Effective 12:01 a.m.
Date: Tuesday, July 29, 2008

Expiration Date: 11:59 p.m. Wednesday,
December 31, 2008. Unless superseded by
subsequent emergency order.

EXPLANATION:

This emergency order rescinds Emergency Order No. 1-RS-H-20-08, issued July 11, and prohibits the retention of sockeye salmon 16 inches or greater in length in the Situk River drainage. These regulations are in effect from July 29, through December 31, 2008.

REGULATIONS:

Emergency Order No. 1-RS-H-20-08 is rescinded and the provisions of 5 AAC 47.023(b) (6) (I) are added by this emergency order. Under this emergency order the following provisions are effective:

5 AAC 47.023. Special provisions for seasons, bag, possession, and size limits, and methods and means for the fresh waters of the Southeast Alaska area.

(b)(6) In the Situk River drainage,

(I) the retention of sockeye salmon 16 inches or greater in length is prohibited; all sockeye salmon 16 inches or greater in length must be released immediately.

Denby S. Lloyd
Commissioner

By delegation to:

Brian Hall Marston
Yakutat Area Management Biologist

JUSTIFICATION:

The Situk River drainage is managed for an optimum escapement goal range of 30,000 to 70,000 sockeye salmon. The weir count through July 23 was 22,525 sockeye salmon which is below the lower escapement goal range for this date when 80% of the run is generally past the weir. Recent sockeye salmon counts at the Situk River weir are declining and a float count conducted on July 27 indicates fewer than 250 sockeye salmon below the weir. As a result of escapement counts near the lowest on record, and few fish in the lower river below the weir, the total escapement is not projected to meet the escapement goal. Therefore it is warranted to close the sockeye sport fishery in the Situk River drainage.

PREVIOUS EMERGENCY ORDERS AFFECTED:

Emergency Order 1-RS-H-20-08 issued July 11, which prohibited the retention of sockeye salmon 16 inches or greater in length in the Situk River upstream of the US Forest Service Middle Cabin and set the daily bag and possession limit at 3 sockeye salmon per day and in possession downstream of the same location. This emergency order was in effect from July 13, through December 31, 2008.

RECEIVED TIME MAR. 13. 10:26AM

Emergency Order Number 1-RS-H-23-07

July 28, 2008

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DISTRIBUTION:

The distribution list for this emergency order is on file at the Region 1 Office of Alaska Department of Fish and Game, Division of Sport Fish, P. O. Box 240020, Douglas, AK 99824, (907) 465-4270.
