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Date: February 18, 2016
To: Steve Brown, CAMF
From: Mike Stanley
Subj: North Peninsula Proposals – Mixed Stock Policy

You have asked me to comment on application of the Board of Fisheries' Policy for the Management of Mixed Stock Salmon Fisheries, 5 AAC 39.220, to various proposals the Board will be considering at its upcoming meeting for the Alaska Peninsula area. Several of these proposals pertain to fishing along the north side of the peninsula, and opponents of fishing in this area, particularly in the Outer Port Heiden Section (OPH), routinely refer to the mixed stock policy as a basis for restricting this fishery. Their concern focuses on your harvest of sockeye that would otherwise return to Bristol Bay river systems, which are mixed in with local North Peninsula stocks. I will address the policy by section.

Paragraph (a) contains a general statement that conservation of wild salmon stocks is the highest priority, and that allocation decisions will be consistent with the subsistence preference and the Board's allocation criteria. This is a correct statement of the legal standards governing the Board's decision-making, and has no unique impact on fishing in OPH or elsewhere.

Paragraph (b) provides that in the absence of a management plan, and when it is necessary to impose restrictions on a fishery where there are known conservation problems, the burden of conservation shall be shared among all fisheries "in close proportion to their respective harvest on the stock of concern." On its face, this provision does not directly apply to your fishery along the North Peninsula because (1) that fishery is regulated under a management plan, the Northern District Salmon Fisheries Management Plan, 5 AAC 09.369, and (2) the Board has not identified any conservation problems with the Bristol Bay stocks that are harvested in Area M. Moreover, it seems clear that your fishery also satisfies the substantive standard of this provision, in terms of sharing the burden of conservation. Results of the WASSIP study indicate that the North Peninsula fishery has an overall harvest rate on Bristol Bay stocks of 1.9 – 2.6 %, indicating that the impact of your fishery on Bristol Bay returns is minimal and likely even undetectable if you consider the error range for estimating the size of those runs. A proportional burden of conservation would likewise be very small, and is more than satisfied by the current management plan. The section pertaining to OPH, 5 AAC 09.369(l), provides that if the commissioner closes a portion of the Egegik District for the conservation of Ugashik River sockeye, he may also close or restrict fishing in OPH.

Paragraph (c) articulates the Board's preference for assigning the conservation burden through application of specific fishery management plans, and provides that management plans necessarily incorporate the Board's judgment on satisfying that burden and properly allocating harvest opportunity. This is really just a way of saying that the Board intends to approach management of mixed stock fisheries through development of management plans, a process that involves detailed scrutiny of all the conservation and allocation issues raised, and that such plans should conclusively be presumed to incorporate whatever burden sharing and allocation the Board deems necessary and appropriate. As stated above, the fishery along the North Peninsula, including in OPH, is regulated under a management plan and should therefore be understood to include the level of conservation burden sharing the Board believes is required.

Paragraph (d) recognizes that most wild Alaska salmon stocks are fully allocated and that the Board will therefore "restrict new or expanding mixed stock fisheries unless otherwise provided for by management plans or by application of the board's allocation criteria." As with (b) and (c) above, the existence of a management plan for regulating your fishery along the North Peninsula, including in OPH, answers the claims of those who invoke the mixed stock policy in the interest of restricting the fishery. Your fishery has also been evaluated under the Board's allocation criteria, as reflected in prior Board findings. Nor can it fairly be said that your fishery is "new and expanding." As pointed out in CAMF's comments to the Board, sockeye have been harvested in waters of the North Peninsula for 100 years. Increases in harvest and effort beginning in the early 1980s mirrored similar increases in Bristol Bay. And while it is true that the Board has opened additional fishing area to your fleet, notably its action in 2007 authorizing limited openings in OPH to control surplus escapement into the Meshik River, such action was intended to provide greater management flexibility, as requested by the Department. This increase in fishing area has not led to an increase in the overall harvest along the North Peninsula. According to the 2014 AMR, the harvest since 2004 has averaged around 2,000,000 sockeye, and is actually lower than the average harvest in the 1990s.

Finally, paragraph (e) states that the mixed stock policy will be implemented only by the Board through regulations. As with paragraph (c), this is more a statement of procedure than substance.

In sum, the fishery along the North Peninsula, including in OPH, is, in my opinion, fully consistent with the mixed stock policy. The Board is the ultimate arbiter of how that policy will be applied and implemented, and if it chooses to authorize fishing in this portion of Area M, particularly in context of a fishery management plan, then its decisions will prevail.