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RC28

March 3, 2016

Alaska Board of Fisheries
Alaska Department of Fish and Game
Boards Support Section
P.O. Box 115526
Juneau, AK 99811-5526

Re: December 2015 agenda item, Proposal 59, Armstrong Family Proposal to change the Northern Naknek-Kvichak boundary line (5 AAC 06.350) to: 58.52.141 N, 157.00.774 W

Dear Members of the Alaska Board of Fisheries:

The “CRITERIA FOR BOARD DELIBERATION ON COMMERCIAL SET GILLNET PROPOSALS IMPACTED BY COASTAL EROSION” consistently reveal the need for the Board to approve our family’s proposal.

The criteria look not just to the erosion. The criteria require that “historical use” be considered, and it is thereby relevant whether the boundary in question has been changed by the Board in a way that unintentionally deviated from an historic boundary line. The Board, of course, should rectify any inadvertent boundary change that outlaws any long-used site.

Also, the criteria recognize that even when there has not been any such unintentional boundary change, “historical use” calls for adjusting a boundary so that an historic user is not deprived of the site.

Each of the six criteria supports our family’s proposal:

These criteria include, but may not be limited to:

- 1. Whether the proposal seeks to address issues related to land that has eroded or accreted through natural or artificial causes contiguous to the leasehold.***

ADF&G’s “STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST” states:

5 AAC 06.350 Closed waters. (b)(1) would be amended to establish Global Positioning System (GPS) coordinates that correspond to the historical location of the upper Graveyard Point marker and factor in the significant shoreline erosion that is occurring.

2. Whether the proposal describes the historical use of the site, and if applicable, adjacent or nearby site(s).

My October 21, 2015 letter to Commissioner Sam Cotton and my November 11, 2015 letter to the Board provide in considerable detail that historical background, including facts showing that the Board inadvertently created GPS coordinates for Graveyard that differ from the historical northern Naknek-Kvichak boundary and, consequently, unintentionally contributed to our family's being unable to fish as we historically have done.

As pointed out in ADF&G's "**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST**":

This ACR addresses an effect of a regulation that resulted in two set net sites that were previously in the commercial fishing district being placed in closed waters.

That ADF&G "**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST**" also states:

5 AAC 06.350(b)(1) has been amended several times in the past to address changes from regulatory markers with latitude and longitude coordinates to Loran C, and from Loran C to GPS coordinates as a way to define the Kvichak District boundary line at Graveyard Point. The intent was not to change the location of the boundary line; however changes in how the boundary line is defined unintentionally resulted in changing the location of the boundary line.

As Jeff Bassett states in his comments to the Board's Committee on Coastal Erosion:

In many cases the coordinates listed in the Commercial Fishing Regulations do not match the physical location of the sign marking the closure line or a geographical feature that has been known on the grounds to be the historical point of closure. The coordinates listed in the State of Alaska Commercial Fishing Regulations, from my experience, do not match the known historical line or signs on the fishing grounds. There have been conflicts among fishermen in Prince William Sound, Cook Inlet, Bristol Bay, and Togiak

because physical markers/geographical reference points do not match the coordinates listed in the State of Alaska Regulation booklets. Many of the points when plotted ended up hundreds of feet away from the historical line. How the coordinates marking closure lines and by what methods they were determined seems to be unknown in most cases. The points were determined before advancement in technology so naturally they are not accurate by today's standards.

The fact that our family consistently fished the top two Graveyard sites for decades is irrefutable.

My father created the topmost site based upon where the Graveyard marker stood, there not being at that time any coordinates of any type for the Graveyard site, merely the beach marker.

An April 11, 1990, letter to DNR from F&W Trooper Richard Dykema and ADF&G's Don Bill states the following about our family's sites:

We have noted Mr. Armstrong's set-net sites and they have always appeared to be in waters open to fishing, South of the ADF&G markers.

3. Any positive and/or negative effects from the proposal to adjacent or nearby site(s), and/or other gear types.

Moving the boundary to the proposed 58.52.141 N, 157.00.774 W corner-marker, which would be a move of about 550 feet to the north, will not displace any set-netter or cause any set-netter to move.

Moreover, our family's proposed boundary change will allow for breathing room for set-netters who have become crowded within a shortened length of beach.

4. *Whether the proposal will change the number of sites legally fished.*

Our family's proposed change will not increase the number of sites legally fished. Moving Graveyard's GPS coordinates to our family's proposed coordinates will not create room for any site above our family's historically fished topmost site. To depict that fact, simultaneously with this letter I am submitting a Record Copy showing the boundary that will exist if the Board grants my family's proposal.

Conversely, were the Board to reject our proposal, the number of sites legally fished historically would be decreased.

5. *If the proposal has allocative impacts, the board will apply the allocation criteria.*

As The Bristol Bay Economic Development Corporation's comments to the Board's Committee on Coastal Erosion recognize,

historical fairness . . . is the ultimate goal of the criteria.

By emphasizing "historical use," the Board's criteria recognize that it would be unfair to allow erosion to force historical set-netters off the beach.

Our family would not fish with any more gear than we historically fished. Nor would there be any site above the topmost Graveyard site that we historically fished. Consequently, allowing the two topmost sites to continue will have no allocative impact on any other set-netter.

When the Board allows an historic set-netter to continue fishing, the Board is in no way being unfair to any other set-netter in the area. On the other hand, not allowing our family's historical use of the two sites would have a tremendously unfair impact on our family.

6. *Whether the site conforms to state statutes and regulations.*

Our family fished all three of our fifty-fathom sites legally for decades before the unintentional boundary changes and erosion caused illegality.

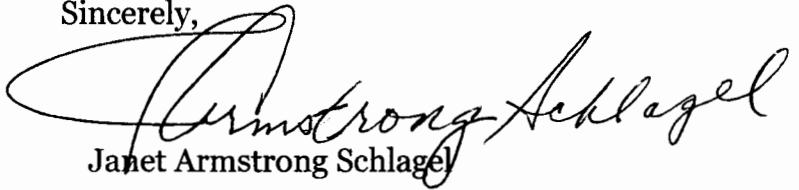
Our proposal requests that we be able to fish as we historically have done, and adopting our proposal will conform our historic sites to State statutes and regulations. The boundary change is needed. As the boundary now stands, DNR could not lease all of

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the area where my family has historically fished.

Thank you very much for your careful and thoughtful consideration of my family's proposal.

Sincerely,



Janet Armstrong Schlagel