



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of  
Fish and Game**

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To: Mr. John Jensen, Chair  
Alaska Board of Fisheries

Date: December 3, 2016

**RC42**

From: Sam Cotten, Commissioner  
Alaska Department of Fish and Game

Subject: Emergency petition to  
expand the allowable spring fishing period  
and area for the Seldovia Subsistence  
Salmon Fishery.

The Seldovia Village Tribe submitted an emergency petition to the Alaska Board of Fisheries (board) on November 21, 2016. Since the emergency petition was received within 30 days before a regularly scheduled board meeting, the board addresses the petition at the Lower Cook Inlet Finfish meeting. Since the petition involves subsistence fishing, under 5 AAC 96.625(f) the petition is "evaluated on a case-by-case basis under the criteria in 5 AAC 96.615(a)." Of those two criteria, it appears to the department that the one the board should consider is whether "the circumstances of the proposal otherwise require expedited consideration by the board." (5 AAC 96.615(a)(2)).

This letter provides information from the Alaska Department of Fish and Game (department) staff concerning the emergency petition.

### **Action Requested**

Seldovia Village Tribe requested the Alaska Board of Fisheries expand the allowable spring fishing period and area for the Seldovia Subsistence Salmon Fishery. More specifically, the Seldovia Village Tribe requested: (1) spring subsistence fishing be extended one month, from April 1–May 30 to April 1–June 30; (2) the subsistence fishing area be expanded from approximately 500 yards north of Fourth of July Creek to 500 yards south of Barabara Creek; and (3) the mandatory distance between nets be reduced from 600 feet to 300 feet.

### **Background**

After a positive customary and traditional use finding for salmon, except enhanced salmon, the board adopted a subsistence set gillnet fishery for salmon in and around Seldovia Bay during its 1995 meeting. A guideline harvest level of 200 king salmon was established to minimize impacting the stocked king salmon fishery in Seldovia Bay. The annual possession limit is 20 king salmon per household. The board has not yet made a finding of amounts reasonably necessary for salmon in this area. The spring fishery is opened for two 48-hour periods per week from April 1 to May 30, and, in the fall, for one 36-hour period each of the first two weekends in August. The board adopted a proposal extending the spring period by 10 days to May 30 at its February 1998 meeting.

During the first years of this fishery, from 1997–2004, an average of 12 subsistence permits were fished, with a reported harvest of an average of 116 king and 135 sockeye salmon in total each year from the April–May 30 fishery (see Appendix Table E3 from the 2015 fishery management report). Since 2004, the number of permits fished and reported harvest has decreased. Preliminary harvest numbers from 2016 show that seven permits were fished, and they reported harvesting a total of 6 king and 51 sockeye salmon. For the fall fishery, the number of permits fished ranged from 0–6 permits from 1997–2015 and reported harvest ranged from 0–188 for all salmon.

There are no proposals being considered for the Seldovia Subsistence Fishery during the 2016 Lower Cook Inlet finfish board meeting.

### **Joint board petition policy**

The Joint Board Petition Policy, 5 AAC 96.625, that the board uses to respond to emergency petitions states that petitions dealing with subsistence fishing “will be evaluated on a case-by-case basis under the criteria in 5 AAC 96.615(a)”. The criteria are:

- (1) the proposal must address a fish or game population that has not previously been considered by the board for identification as a population customarily and traditionally used for subsistence under AS 16.05.258; or
- (2) the circumstances of the proposal otherwise must require expedited consideration by the board, such as where the proposal is the result of a court decision or is the subject of federal administrative action that might impact state game management authority.

It appears to the department that criterion 2 is the relevant criterion for the board to consider in relation to this emergency petition.

Under AS 44.62.270, “It is the state policy that emergencies are held to a minimum and are rarely found to exist.”

### **Discussion**

The emergency petition states “We consider this request to fit the requirements for an emergency petition because under the prescribed schedule, this matter would not come up for consideration for the Board of Fisheries until 2019”. The call for proposals for Lower Cook Inlet finfish was issued in 2015 and proposals were due by April 10, 2016. The Seldovia Village Tribe had the opportunity to submit a proposal regarding the Seldovia Subsistence Fishery during the normal call for proposals. In addition, the emergency petition also references the timing and area of the fishery in relation to the availability of salmon. Salmon runs in the area are variable from year to year in this area. However, there do not appear to be any trends that salmon runs are either earlier or later than normal.

cc: Glenn Haight, Executive Director, Alaska Board of Fisheries  
Hazel Nelson, Director, Division of Subsistence  
Scott Kelley, Director, Division of Commercial Fisheries  
Tom Brookover, Director, Division of Sport Fisheries  
Seth Beausang, Assistant Attorney General, Department of Law

Appendix E3.—Salmon set gillnet harvest in numbers of fish by species and permit/effort information for the Seldovia area subsistence fishery, Lower Cook Inlet, 1997–2015.

Year	Permits				Reported harvest					
	Issued	Returned	Fished	Not Fished	Chinook	Sockeye	Coho	Pink	Chum	Total
Early Season: April–May <sup>a</sup>										
1997	19	16	12	4	44	19	0	0	0	63
1998	20	19	10	9	132	61	0	8	0	201
1999	16	15	12	3	150	130	0	0	38	318
2000	28	21	17	4	189	249	0	0	14	452
2001	19	17	14	3	134	124	0	0	0	258
2002	20	18	12	6	123	222	0	0	3	348
2003	19	13	10	3	67	210	0	1	54	332
2004	13	10	9	1	91	63	0	0	15	169
2005	15	13	4	9	46	0	0	0	0	46
2006	15	12	6	6	12	10	0	1	0	23
2007	15	12	5	7	19	27	0	0	0	46
2008	10	8	3	5	3	15	0	0	0	18
2009	6	5	1	4	14	0	0	0	0	14
2010	11	8	2	6	0	54	0	0	0	54
2011	4	2	1	1	0	49	0	0	0	49
2012	16	6	2	4	3	26	0	0	0	29
2013	7	5	4	1	1	93	0	0	0	93
2014	12	8	4	4	3	69	0	0	2	74
Prev 10-yr average	11	8	3	5	10	34	0	0	0	54
2015	6	4	4	0	16	70	0	4	0	90
Late Season: August <sup>b</sup>										
1997	1	1	0	1	0	0	0	0	0	0
1998	3	2	1	1	0	0	0	0	0	0
1999	0	0	0	0	0	0	0	0	0	0
2000	0	0	0	0	0	0	0	0	0	0
2001	0	0	0	0	0	0	0	0	0	0
2002	1	1	1	0	0	9	13	31	6	59
2003	1	1	1	0	0	10	1	12	1	24
2004	1	1	1	0	0	0	4	0	0	4
2005	3	2	2	0	0	70	13	93	12	188
2006	2	2	1	1	0	0	0	21	0	21
2007	4	4	3	1	0	24	9	80	27	140
2008	2	2	2	0	0	16	41	65	5	127
2009	12	9	8	1	0	78	10	44	14	146
2010	5	4	3	1	2	46	31	66	35	180
2011	3	2	1	1	0	6	0	10	0	16
2012	4	1	1	0	0	3	0	20	0	23
2013	5	3	3	0	1	5	1	45	10	62
2014	9	7	6	1	2	47	0	5	63	117
Prev 10-yr average	5	4	3	1	1	30	11	45	17	102
2015	2	2	0	2	0	0	0	0	0	0

Source: Data on file with ADF&G, Division of Subsistence; gear types include set gillnet, rod/reel, and handline.

<sup>a</sup> Early season dates in 1996 and 1997 from April 1 to May 20; subsequent years were from April 1 to May 30.

<sup>b</sup> Late season dates are restricted to the first 2 weekends in August.