



June 13, 2011

Alaska Board of Fisheries
c/o Monica Wellard, BOF Executive Director
P.O. Box 115526
Juneau, AK 99811-5526
FAX: 907-465-6094

RE: Emergency Petition for UCI Central District Drift Gillnet Fishery Management Plan

Dear Board Chair Webster and Members of the Alaska Board of Fisheries:

Kenai River Sportfishing Association (KRSA) and the Mat-Su Mayor's Blue Ribbon Sportsmen's Committee (MSBRSC) wishes by way of this letter to notify the Alaska Board of Fisheries (BOF) of significant regulatory errors in the newly codified version the Central District Drift Gillnet Fishery Management Plan [5 AAC 21.353]. These regulatory errors, if left uncorrected, create a situation that we contend qualifies as an emergency as defined in AS 44.62.270. In this case, the emergency is an unforeseen, unexpected event that threatens a fish resource. Specifically, the unforeseen, unexpected event is the regulatory errors that have transpired when implementing regulatory action taken by the BOF to address stocks of concern in Upper Cook Inlet Area during the February 22 – March 5, 2011 meeting. The regulatory errors are contrary to board action and are of such magnitude so as to threaten a fish resource designated as a stock of concern.

The BOF during their recent meeting (February 22-March 5, 2011) spent a considerable amount of time reviewing and amending the Central District Drift Gillnet Management Plan. This plan is a fundamental building block of management for the salmon fisheries of Upper Cook Inlet. The drift fishery is arguably the most powerful of all gear groups and the fishery targets salmon stocks and species when these fish are highly mixed with respect to stream of origin. The primary objectives of amendments were to pass more sockeye salmon to the Susitna/Yentna River origin and more coho salmon into all of the streams of the Northern Cook Inlet. KRSA and MSBRSC were present through the entire BOF meeting and our organizations co-authored Proposal 126 which was one important focal point for board deliberation of drift fishery issues. The other important focal point was the stock of yield concern designation for Susitna Sockeye.

Regulatory errors were identified based on our review of the following:

1. The newly codified regulations (found on pages 7, 8, and 9 of the document regarding adopted regulation changes in UCI sent to us via email by Kerri Tonkin on May 27, 2011);
2. BOF finding 2011-266-FB which was approved by a vote of 7-0 and signed by Board Chair Webster on March 26, 2011;
3. Pertinent RC's and Proposals including RC 164, RC 200, Proposal A (board generated) and Proposal 126; and,
4. Audio tapes of the BOF deliberation of the Drift Plan over the three day period February 28, March 1 and March 2, 2011.

KRSA and MSBRSC wish to express our thanks to Department staff for the excellent help they provided as we sought important documents.

Three significant errors exist in the newly codified regulations. Each of these increases the fishing power of the Drift Gillnet Fishery and has the potential to significantly increase harvest of sockeye and coho stocks that the Board sought to protect. The first two regulatory errors erode the Board's effort to address the Susitna River Sockeye Salmon Stock of Yield Concern finding established first in 2008 and affirmed again in October 2010. The third error affects both Susitna sockeye and northern Cook Inlet coho. You may recall that it was the Department's position that northern Cook Inlet coho were in such short supply that the traditional sport fishery daily bag and possession limit needed to be reduced from three to two fish to provide for the sustained yield of the stocks. The regulatory errors, highlighted in yellow, are as follows:

- 1) The first error incorrectly utilizes the expanded corridor in both regular fishing periods during July 9-15 rather than only during the first regular period and additional corridor-only fishing periods as the Board specified. The problem is that the expanded corridor also includes a portion of the previously-closed Area 2 which effectively counteracts a significant portion of the first regular period restriction.

5 AAC 21.353 (a)(2)(A)(ii) which as now codified reads:

“fishing during the second regular fishing period is restricted to the **Expanded** Kenai and **Expanded** Kasilof Sections of the Upper Subdistrict and Drift Gillnet Area 1.”

This section should read:

“fishing during the second regular fishing period is restricted to the Kenai and Kasilof Sections of the Upper Subdistrict and Drift Gillnet Area 1.”

- 2) The second error incorrectly utilizes the expanded corridor in an additional fishing period allowed during July 9-15 when the Kenai sockeye late run exceeds 2.3 million.

5 AAC 21.353 (a)(2)(A)(iii) which as now codified reads:

“at run strengths greater than 2,300,000 sockeye salmon to the Kenai River, the commissioner may, by emergency order, open one additional 12-hour fishing period in the Expanded Kenai and Expanded Kasilof Sections of the Upper Subdistrict and Drift Gillnet Area 1.”

This section should read:

“at run strengths greater than 2,300,000 sockeye salmon to the Kenai River, the commissioner may, by emergency order, open one additional 12-hour fishing period in the Kenai and Kasilof Sections of the Upper Subdistrict and Drift Gillnet Area 1.”

Board action pertaining errors one and two may be found in Alaska Board of Fisheries Finding 2011-266-FB, page 1, paragraph three, RC 200 which became the Board generated Proposal A, passed on March 1, and audio tape of the Board deliberation on the afternoon of February 28 (see attachments). The new regulatory code is inconsistent with language in RC 200, which was brought “to the table” as Board generated Proposal A, deliberated at length and with great specificity, and passed by the Board with a 6-1 vote at 3:32:50 on February 28. There was no discussion or amendment at any point in the board deliberation of sections (A)(ii) or (A)(iii) to change the Kenai and Kasilof Sections to the Expanded Kenai and Expanded Kasilof Sections.

- 3) The third error incorrectly allows for the use both of the expanded corridor and Area 1 during the weekly restricted regular period between July 16 and July 31 when the Kenai sockeye run is between 2.3 and 4.6 million. The Board directed that this restricted period be fished in the expanded corridor or drift Area 1, not both. The expanded corridor was specifically developed by the Board to reduce the area fished in both drift Areas 1 and 2 – only a portion of Area 2 would be closed under the erroneous language.

5 AAC 21.353 (a)(2)(B)(ii) which as now codified reads:

“at run strengths of 2,300,000 – 4,600,000 sockeye salmon to the Kenai River, fishing during one regular 12-hour fishing period per week will be restricted to either the Expanded Kenai and Expanded Kasilof Sections of the Upper Subdistrict or Drift Gillnet Area 1, or both.”

This section should read:

“at run strengths of 2,300,000 – 4,600,000 sockeye salmon to the Kenai River, fishing during one regular 12-hour fishing period per week will be restricted to either or both the Expanded Kenai and Expanded Kasilof Sections of the Upper Subdistrict or Drift Gillnet Area 1.”

Related Board deliberations were of Proposal 126 on the afternoon of March 1, 2011. On March 2, 2011 Board Chair Webster also led the board through a detailed clarification of actions taken on Proposal 126 the day before. As part of that discussion, Board Vice-Chair Johnstone carefully reviews the language of Proposal 126 line-by-line as relates to this error. We do not know how this error occurred but submit that its effects if implemented will be significantly different from what was intended by the co-authors of Proposal 126.

KRSA and MSBRSC believe that this situation meets the qualifications for emergency as set forth in statute and respectfully requests that the Board accept this Petition and take action promptly to correct these significant regulatory errors before harm is done to fisheries of Upper Cook Inlet in the season that is now upon us. Please consider this communication to be a request to address the regulatory errors though the Joint Board petition policy outlined in 5 AAC 96.625. Timely action is needed because the Drift Gillnet Fishery will be entering the time periods addressed in the newly codified regulations very soon.

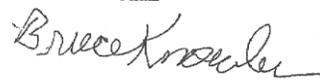
Sincerely,



Eldon Mulder
KRSA Board Chair



Reuben Hanke
KRSA Fisheries Chair



Bruce Knowles
MSBRSC Chair

Attachments:

- A. Final Sub-CF UCI regs
- B. BOF Finding 2011-266-FB
- C. RC 164, RC 200 - Proposal A (board generated), and Proposal 126
- D. Audio Log from February 28, March 1 and March 2
- E. Summary of 2011 Central District Drift Gillnet Fishery Management Plan Changes, Map and Corrections