

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF FISH AND GAME

DIVISION OF COMMERCIAL FISHERIES
DIVISION OF SPORT FISH

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Memorandum

TO: Vince Webster, Chair
Alaska Board of Fisheries

DATE: June 24, 2011

THRU: Jeff Regnart, Director 
Division of Commercial Fisheries

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

Charles Swanton, Director 
Division of Sport Fish

FROM: Tracy Lingnau, Region II Regional Supervisor
Division of Commercial Fisheries

James Hasbrouck, Region II Regional Supervisor
Division of Sport Fish

Action Requested

This memorandum is in response to a June 13, 2011 emergency petition for the Upper Cook Inlet (UCI) *Central District Drift Gillnet Fishery Management Plan* submitted by the Kenai River Sport Fishing Association and the Mat-Su Mayor's Blue Ribbon Sportsmen's Committee. The petitioners request that the Alaska Board of Fisheries (board) adopt emergency regulations for management of the UCI commercial drift gillnet fishery. The petitioners believe there are regulatory errors in the newly codified version of the *Central District Drift Gillnet Fishery Management Plan*, 5 AAC 21.353. The petitioners also state those errors create a situation that qualifies as an emergency under AS 44.62.270 and 5 AAC 96.625(f) because they threaten a fish resource designated as a stock of concern.

The petitioners state three errors were made and assert the need for new regulations for each. The petitioners believe that the current regulatory language should change to:

5 AAC 21.353 (a)(2)(A)(ii): 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.

5 AAC 21.353 (a)(2)(A)(iii): 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.

5 AAC 21.353 (a)(2)(B)(ii): 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. [, OR BOTH.]

Background

Susitna River sockeye salmon were found by the board to be a stock of yield concern at its 2008 UCI board meeting. An action plan was developed to conservatively manage the commercial fishery while research continues to better understand the productivity of this stock. The action plan requires the Northern District set gillnet fishery to fish with no more than one net per permit from July 20 through August 6, and for the department to implement four drift restrictions, two restrictions from July 9 to July 15 and two restrictions from July 16 to 31. At its 2011 meeting, the board modified the Northern District set gillnet restrictions, allowing for that portion of the General Subdistrict south of the Susitna River to fish with no more than two nets per permit after July 30. All areas in the Northern District return to a full complement of gear after August 6.

The Central District Drift Gillnet Fishery Management Plan (5AAC 21.353) requires the department to implement restrictions to the drift gillnet fleet, primarily for the purpose of passing salmon to Northern Cook Inlet. These restrictions are correlated to the size of the sockeye salmon run to the Kenai River, as the board recognizes the fact that the department is charged with meeting escapement goals of multiple stocks in multiple river systems. Therefore, restrictions, in most part, limit where the drift fleet can fish, in an attempt to reduce harvest levels on northern-bound stocks, while still allowing for harvest of typically larger (run size) stocks bound for the Kenai and Kasilof rivers.

Prior to the March 2011 board meeting, the *Central District Drift Gillnet Fishery Management Plan* required two drift gillnet fishing periods from July 9 through July 15 to be restricted to the Kenai and Kasilof sections and Drift Gillnet Area 1. At run strengths greater than 2 million sockeye salmon to the Kenai River, an additional 12-hour fishing period in the Kenai and Kasilof sections of the Upper Subdistrict and Drift Gillnet Area 1 could be allowed. From July 16 through July 31, at run strengths of 2 to 4 million sockeye salmon to the Kenai River, fishing during the two regular 12-hour fishing periods was restricted to the Kenai and Kasilof sections of the Upper Subdistrict and Drift Gillnet Areas 1 and 2.

The *Central District Drift Gillnet Fishery Management Plan* now requires the first regular period during the July 9–15 time frame to be restricted to the Expanded Kenai and Expanded Kasilof sections. The second regular drift fishing period is restricted to the Expanded Kenai and Expanded Kasilof sections and Drift Gillnet Area 1. In 2011, these restricted periods will be on July 11 and July 14. If the sockeye salmon run is greater than expected and showing early run strength, the

department may open an additional 12-hour drift fishing period in the Expanded Kenai and the Expanded Kasilof sections, and in Drift Gillnet Area 1.

From July 16 through July 31, in runs between 2.3–4.6 million Kenai River sockeye salmon, there will be one regular 12-hour fishing period per week restricted to either or both the Expanded Kenai and Expanded Kasilof sections of Upper Subdistrict and Drift Area 1. The dates when these two restrictions occur will be dependent on run timing and run strength to the Kenai River.

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.

If the Board adopts an emergency regulation, it will be effective for 120 days from filing with the Lieutenant Governor. If the board wants to make the changes permanent, it should so indicate and delegate to the department the authority to take whatever action is required to make that happen.

Findings of Emergency

The department has emergency authority to restrict or close commercial fishing periods to attain escapement goals. The *Susitna River Sockeye Salmon Action Plan* was developed in 2008 to ensure conservative measures were in place to meet escapement goals. Additional conservation measures were enacted at the 2011 board meeting to the drift fishery to move additional salmon through the Central District to the Susitna River. The board may wish to consider, in responding to this petition, whether the existing regulations meet its intended actions during the 2011 board meeting or whether the newly codified language constitutes (1) an unforeseen, unexpected event that either threatens a fish resource, or (2) 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.