

**Staff Comments on Agenda Change Requests from the  
Board of Fisheries Work Session in Anchorage Alaska,  
October 9-11, 2007**

by

**Alaska Department of Fish and Game**

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September 2007

Alaska Department of Fish and Game

Division of Commercial Fisheries



## Symbols and Abbreviations

The following symbols and abbreviations, and others approved for the Système International d'Unités (SI), are used without definition in the following reports by the Divisions of Sport Fish and of Commercial Fisheries: Fishery Manuscripts, Fishery Data Series Reports, Fishery Management Reports, Special Publications and the Division of Commercial Fisheries Regional Reports. All others, including deviations from definitions listed below, are noted in the text at first mention, as well as in the titles or footnotes of tables, and in figure or figure captions.

<b>Weights and measures (metric)</b>		<b>General</b>		<b>Measures (fisheries)</b>	
centimeter	cm	Alaska Administrative		fork length	FL
deciliter	dL	Code	AAC	mid-eye-to-fork	MEF
gram	g	all commonly accepted		mid-eye-to-tail-fork	METF
hectare	ha	abbreviations	e.g., Mr., Mrs., AM, PM, etc.	standard length	SL
kilogram	kg			total length	TL
kilometer	km	all commonly accepted			
liter	L	professional titles	e.g., Dr., Ph.D., R.N., etc.		
meter	m		@	<b>Mathematics, statistics</b>	
milliliter	mL	at		<i>all standard mathematical</i>	
millimeter	mm	compass directions:		<i>signs, symbols and</i>	
		east	E	<i>abbreviations</i>	
		north	N	alternate hypothesis	H <sub>A</sub>
		south	S	base of natural logarithm	<i>e</i>
		west	W	catch per unit effort	CPUE
		copyright	©	coefficient of variation	CV
		corporate suffixes:		common test statistics	(F, t, $\chi^2$ , etc.)
		Company	Co.	confidence interval	CI
		Corporation	Corp.	correlation coefficient	
		Incorporated	Inc.	(multiple)	R
		Limited	Ltd.	correlation coefficient	
		District of Columbia	D.C.	(simple)	r
		et alii (and others)	et al.	covariance	cov
		et cetera (and so forth)	etc.	degree (angular)	°
		exempli gratia	e.g.	degrees of freedom	df
		(for example)		expected value	<i>E</i>
		Federal Information		greater than	>
		Code	FIC	greater than or equal to	≥
		id est (that is)	i.e.	harvest per unit effort	HPUE
		latitude or longitude	lat. or long.	less than	<
		monetary symbols		less than or equal to	≤
		(U.S.)	\$, ¢	logarithm (natural)	ln
		months (tables and		logarithm (base 10)	log
		figures): first three		logarithm (specify base)	log <sub>2</sub> , etc.
		letters	Jan, ..., Dec	minute (angular)	'
		registered trademark	®	not significant	NS
		trademark	™	null hypothesis	H <sub>0</sub>
		United States		percent	%
		(adjective)	U.S.	probability	P
		United States of		probability of a type I error	
		America (noun)	USA	(rejection of the null	
		U.S.C.	United States	hypothesis when true)	$\alpha$
			Code	probability of a type II error	
		U.S. state	use two-letter	(acceptance of the null	
			abbreviations	hypothesis when false)	$\beta$
			(e.g., AK, WA)	second (angular)	"
				standard deviation	SD
				standard error	SE
				variance	
				population	Var
				sample	var

  

<b>Weights and measures (English)</b>					
cubic feet per second	ft <sup>3</sup> /s				
foot	ft				
gallon	gal				
inch	in				
mile	mi				
nautical mile	nmi				
ounce	oz				
pound	lb				
quart	qt				
yard	yd				

  

<b>Time and temperature</b>					
day	d				
degrees Celsius	°C				
degrees Fahrenheit	°F				
degrees kelvin	K				
hour	h				
minute	min				
second	s				

  

<b>Physics and chemistry</b>					
all atomic symbols					
alternating current	AC				
ampere	A				
calorie	cal				
direct current	DC				
hertz	Hz				
horsepower	hp				
hydrogen ion activity	pH				
(negative log of)					
parts per million	ppm				
parts per thousand	ppt, ‰				
volts	V				
watts	W				

***REGIONAL INFORMANTION REPORT NO. IJ07-XX***

**STAFF COMMENTS ON AGENDA CHANGE REQUESTS FROM THE  
BOARD OF FISHERIES WORK SESSION IN ANCHORAGE ALASKA,  
OCTOBER 9–11, 2007**

By  
Alaska Department of Fish and Game,  
Divisions of: Commercial Fisheries, Sport Fish, and Subsistence

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The Regional Information Report Series was established in 1987 and was redefined in 2006 to meet the Division of Commercial Fisheries regional need for publishing and archiving information such as project operational plans, area management plans, budgetary information, staff comments and opinions to Board of Fisheries proposals, interim or preliminary data and grant agency reports, special meeting or minor workshop results and other regional information not generally reported elsewhere. Reports in this series may contain raw data and preliminary results. Reports in this series receive varying degrees of regional, biometric and editorial review; information in this series may be subsequently finalized and published in a different department reporting series or in the formal literature. Please contact the author or the Division of Commercial Fisheries if in doubt of the level of review or preliminary nature of the data reported. Regional Information Reports are available through the Alaska State Library and on the Internet at: <http://www.sf.adfg.ak.us/statewide/divreprots/html/intersearch.cfm>.

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## **ABSTRACT**

This publication is a compilation of agenda change requests and their corresponding Alaska Department of Fish and Game staff comments from the Alaska Board of Fisheries Work Session in Anchorage Alaska, October 9-11, 2007.

Key words: agenda change request, Board of Fisheries, comments

## **INTRODUCTION**

The following Agenda Change Requests (ACR) are addressed in this publication.

- ACR 1 -** Add restrictions to Sitka Sound Herring fishery to protect Salisbury Sound (Section 13A) stocks
- ACR 2 -** Allow set gillnet running lines within 500 feet of 18 foot high tide mark in Naknek River SHA to remain during drift gillnet openings
- ACR 3 -** Reduce mesh size for gillnets to preserve the genetic diversity and historical size structure of the Yukon River king salmon
- ACR 4 -** Address Yukon River salmon conservation concerns in reference to US/Canada Treaty obligations
- ACR 5 -** Revise stocked waters management plan
- ACR 6 -** Add new management measures to prevent overharvest and ensure accurate accounting, biological sampling and enforcement of state-waters scallop harvest
- ACR 7 -** Review Naknek River Special Harvest Area 3:1 drift gillnet to set gillnet ratio for open periods
- ACR 8 -** Change designation of Yukon River king salmon from a "yield concern" to a "management concern"
- ACR 9 -** Revise Yukon River king salmon escapement goals to address quality of escapement
- ACR 10 -** Readdress use of "windows" for subsistence fishery management
- ACR 11 -** Review of the demersal shelf rockfish management to avoid unattended closures in sport fishery
- ACR 12 -** Allow subsistence harvest of clams in Ketchemak Bay
- ACR 13 -** Modify fishing in the Outer Port Heiden Section to address subsistence needs
- ACR 14 -** Increase allowable set gillnet length for Naknek River SHA
- ACR 15 -** Update definitions to include Dark Rockfish (*S. ciliatus*)
- ACR 16 -** Clarify western boundary of Ugashik District
- ACR 17 -** Modify ratio of openings for set gillnet and drift gillnet in Naknek-Kvichak District
- ACR 18 -** Reinstate original comprehensive allocation plan for the Naknek River SHA
- ACR 19 -** Modify fishing in the Outer Port Heiden Section to increase passage of Bristol Bay stocks

- ACR 20** - Close fishing in the Outer Port Heiden Section to increase passage of Bristol Bay stocks
- ACR 21** - Reinstate 100,000 sockeye salmon cap and maximum 24 hour fishing restriction in the North Peninsula
- ACR 22** - Revise management plan for Southeastern District Mainland
- ACR 23** - Modify fishing in the Outer Port Heiden Section to address subsistence needs
- ACR 24** - Have state halibut regulations mirror federal regulations for consistency with the North Pacific Halibut Act and international treaty
- ACR 25** - Allow use of proxies for subsistence, sport, and personal use shellfish fisheries



## **ACR NO. 1: ADD RESTRICTIONS TO SITKA SOUND HERRING FISHERY TO PROTECT SALISBURY SOUND (SECTION 13A) STOCKS**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.** 5 AAC 27.195 Area 13b The Sitka Sound Commercial Herring Sac Roe Fisheries, at the 2003 Board of Fisheries hearing included area 13A, Com Fish testified that area 13A were the same stock of fish; though no scientific data was presented confirm this assumption.

In accordance with 5 AAC 27.190 fishing conducted in an area for herring without making sure that the stocks are in fact the same stocks is outside the regulations.

Such is the case in the Area 13A. Salisbury Sound, which I believe supersedes an emergency opening. The only facts we have concluding that Salisbury Sound is a bleed over from the Sitka Sound herring stocks is visual sightings.

1. Herring, like salmon, intermingle; they usually separate and move to their spawning area when the time is right.
2. When small stocks of herring have good year classes they build
3. The visual activity is usually over when Hoonah Sound Pound fisheries is over
4. Herring that spawn after this activity are not observed
5. The herring that were observed spawning was in and around April 10, which is a later timing than that in Sitka Sound, even later spawning dates than April 10 for Salisbury Sound would also go unobserved, rendering a few visual sightings only part of the picture
6. Then there is the Tracer Element Microchemistry analysis being done on the herring stocks in Salisbury Sound in it's first year of testing that though inconclusive, shows that Salisbury herring could be a separate stock
7. The timing on the Salisbury herring spawn is at a latter date then the big spawn in Sitka Sound indicating that it may not be bleed over herring
8. When there is doubt about a herring spawn population, care needs to be taken in order that stocks be protected
9. Then if there is indication after study, the procedures to protect these stocks long term need to be taken in accordance with the procedure laid out in the Alaska Statutes, and the Alaska Administrative Code.
10. Lastly I will say that 5 AAC 27.195 13A is a large area so where are the guidelines to fishable area, who soon will a different leadership in the Department of Fish and Game change and the Sitka Sound Sac Roe Fishery be conducted in places that may include Lisianski Inlet
11. At the 2003 Board of Fisheries meeting, the Department of Fish and Game were asked to lay out a plan for a Salisbury Sound Sac Roe Fisheries which seems not to be done to date, while a fisheries was conducted there in 2006.

Then there is genetic characteristics that all herring possess from Nelson Bay to San Francisco, you will find that all herring, can interbreed together and produce offspring as in the Canadian genetics report, the same is being said about the human being and Chinook salmon as well as the other species, yet like the salmon each herring stock historically has spawned in the same general area, up and down the west coast for many centuries, none appear to come from Canada or come down from Nelson Lagoon to spawn here in Sitka Sound or for that matter Salisbury Sound, if

what is implied were true we would have a floating mass of herring hitting different places on the coast of America not coming back to the same general area every year.

I am concerned about poor science that says Salisbury Sound Herring are the same group as Sitka Sound Herring when no study has really been made.

I am not a biologist, but visual observation of herring on the inside waters in Frederick Sound, Chatham Straits, Stevens Pass and Sumner Straits, tells me that stocks are indigenous to an area and spawn there.

Also the history of herring lost tells me that unregulated fisheries tend to wipe out different local schools, I will site the winter herring in Petersburg which was killed for a bait fisheries, a person might say that herring are there in the summer, these do not reside in Petersburg in the winter hence they are a different stock, the loss of herring on the Foggy Bay Shore, the loss of herring in Auke Bay, the loss of winter herring in Point Baker.

A person might say these were insignificant stocks but when a stock of fish are gone, when do supposed bleed over replace them, the Petersburg winter stocks are gone now over 50 years as the winter stocks in Point Baker, the herring in Auke Bay probably 35 years, I can not digest this statement, "they moved someplace else", my opinion of that is they moved to herring heaven and will not be back. Let us hope that I am wrong.

I am not opposed to herring fishing in Salisbury Sound, I just want all the bells and whistles that make it a stock worth conserving, and I hope that this is the aim of the Board of Fisheries also. Remember you are in charge of conserving the stocks and good science is good science, not just a visual observation.

Lastly I will say that 5 AAC 27.195 13A is a large area with many stocks of herring that spawn in various bays, I am concerned about where this supposed fisheries will stop also, year by year we have now attitudes and new managers, area 13A Salisbury Sound has no defined area limits for this emergency openings that have gone on, it is time the Department of Fish and Game get on with studying the Salisbury Sound herring stocks, define which portion a 13A fisheries is applicable to this fisheries, this was clearly the mandate of the 2003 Board of Fish, another cycle has gone by with out this being done. Thank you for your patience for reading my comment response.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Preliminary trace element microchemistry on herring otoliths done by Sitka Tribes of Alaska indicate that area 13A may be a separate stock of herring than those found in 13B, to be conclusive, this study needs to be conducted for at least three more years.

**or 2) Correct an error in regulation:** The expansion of the Sitka Sound Commercial Herring Sac Roe Fisheries, (5 AAC 27.195) into 13A Salisbury Sound needs to be reversed or perhaps a moratorium be put into place until such time that the trace element microchemistry by Sitka Tribes of Alaska can be concluded, establishing a scientific status for this area 13B.

**or 3) correct an unforeseen effect of a regulation:** The establishment of the fishing area with out the proper science may ultimately cause irreversible harm to these stocks if they in fact prove

to be another group of fish. Good management methods need to be adopted if they are indeed another group.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** 5 AAC 27.195. AREA 13A was not included in the original area 13B, at the inception and for a number of years this sac roe fishery was marginal, presently most herring stocks have recovered so that harvest levels are high, the move into 13A where the stock size hasn't been assessed may have a detrimental effect on this stock, stock assessments and biological sampling cannot be harmful because it guards against over harvest and all gain by the proper management and conservation.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** This is not an allocative proposal, 5 AAC 27.195. 13A, is not presently dedicated to the herring commercial sac roe fisheries according to the way the present regulation is written, the allowance of a commercial sac roe fisheries to take place without changing the regulation is presently illegal according to the law, though I am not against a harvest in 13A the proper scientific assessment needs to be done with a good management regime.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 21.195. Sitka Sound commercial sac roe herring fishery.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Fishing a stock of herring without a management regime puts that stock at risk; it is good management to have good tools to work with.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** I hold a commercial entry permit, I am a sportsman, and I am also a subsistence user that has eaten herring since I was a child, when I went down to the harbor in Petersburg using a herring rake to catch dinner. The long term health of this important food fish concerns me.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** I put forth a proposal in 2003 Board of Fisheries meeting, since the regulation reads that the fisheries is to be conducted in 5 AAC 27.195 according to the Herring Commercial Fish regulations, the mandate was clear to me and many others who look at the regulation.

**Submitted By:** N. Ralph Guthrie

## **ADF&G COMMENTS ON ACR NO. 1**

### **AGENDA CHANGE REQUEST NUMBER: 1**

**PRESENT SITUATION:** The Alaska Department of Fish and Game (ADF&G) manages commercial herring sac roe fisheries according to 5AAC 27.190. The Herring Management Plan for Southeastern Alaska Area requires that the department (1) shall identify stocks of herring on a spawning area basis. In addition the department manages the Sitka Sound commercial herring sac roe fishery (5AAC 27.195) in Section 13-B north of Aspid Cape to (2) distribute the harvest by fishing time and area if the department determines that it is necessary to ensure that subsistence users have a reasonable opportunity to harvest the amount of herring spawn necessary for subsistence uses specified in 5AAC 01.716(b). The department has periodically harvested some of the guideline harvest level available for this fishery in Section 13-A. Based on the spawning area and timing of spawning in Salisbury Sound in Section 13-A, visual observations of herring movement during spawning season between Salisbury Sound and Sitka Sound, and considering that herring spawn in the Salisbury area is highly intermittent (spawn has occurred in Salisbury in 13 of the past 44 years), the department considers herring spawning in both areas to be included in the same stock. Consequently, the department has opened the Sitka Sound commercial sac roe herring fishery in Salisbury Sound in Section 13-A four times including: 1989, 1999, 2002, and 2006. These openings have occurred under the department's emergency order authority. Alaska Statute 16.05.060, Emergency Orders, states that: (a) This chapter does not limit the power of the commissioner or his authorized designee, when circumstances require, to summarily open or close seasons or areas... by means of emergency orders.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** ACR No. 1 seeks to exclude future Sitka area sac roe fisheries from occurring in Salisbury Sound unless the department first conducts a separate stock assessment for that area and manages those herring as a separate stock.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

#### **1. Is there a pressing fishery conservation purpose or reason? No.**

Based on current available information the department does not conclude that Salisbury Sound herring comprises a separate stock. The Sitka Sound herring stock is currently at historically high levels and the stock is healthy. The department stock assessment program includes Salisbury Sound when any significant spawning occurs there. Threshold and harvest rate policies have been shown to be effective in providing for sustained uses and conservation of the herring resource.

#### **2. Does the agenda change request correct an error in regulation? No.**

5AAC 27.195, Sitka Sound Commercial Sac Roe Herring Fishery Management Plan, includes Section 13-B north of the latitude of Aspid Cape although it does not reference Salisbury Sound which is adjacent to the north in Section 13-A. 5AAC 27.190 requires the department to identify the stock based on spawning area. Under that provision the department has encompassed Salisbury Sound as a significant part of the spawning area for the Sitka Sound herring stock. At the 2003 Alaska Board of Fisheries (BOF) meeting the board considered Proposal 145 with identical intent to this ACR. The BOF did not adopt the proposal and did not identify a need for a change in regulations. Emergency Order authority through AS 16.05.060 provides the

department time and area authority to open the fishery in Section 13-A when circumstances require.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly.

At the time sac roe fishery areas were established in regulation in 1975 there had been no documented herring spawning in Salisbury Sound. Salisbury Sound was, therefore, not included in the original regulation defining sac roe areas. Since 1975 the Sitka herring stock biomass has increased substantially. At lower stock biomass levels herring spawning concentrates in core spawning areas in Section 13-B (Sitka Sound) and as the stock increases, spawn area often enlarges sometimes overlapping into Section 13-A. Since the time the BOF adopted the sac roe herring fishery areas ADF&G has assessed the stock based on determination of the spawning area as specified in the Herring Management Plan for Southeast Alaska. ADF&G has managed the fishery based on the original intent of the herring management plan and in years when the Sitka herring stock has expanded into Section 13-A that area has been opened by emergency order. The department has extended herring fishery boundaries into Salisbury Sound in Section 13-A four times—1989, 1999, 2002, and 2006. These openings have allowed commercial access to the guideline harvest level (GHL) which otherwise would not have been available. In addition, these openings have made it possible to distribute the harvest geographically, to avoid excess depletion of one portion of the population, and to minimize harvest in subsistence fishing areas. In short it was unforeseen that the Sitka Sound herring stock would expand into Salisbury Sound when the original herring management plan was adopted but the fishery is being managed on a spawning area basis as based on the original intent of the BOF.

**Additional Information:** The Herring Management Plan for Southeast Alaska does not use the term “stock” in the herring regulation, instead it identifies “spawning area” as the basis for management. In that sense, what the department observes for the timing and location of spawn forms the basis of the fishery. The stock concept implies that there is a reproductively isolated or genetically distinct population. There is no genetic basis to support the idea that Salisbury Sound herring is a separate stock from Sitka Sound herring. Trace element microchemistry work referenced in the ACR is preliminary and the department is not aware of any peer reviewed publication that reports on this work, so it is not being used by the department to define spawning area or stock. This proposal, however, seeks to change the management of herring from a spawning area basis to a stock basis, even though there is currently not enough information to do so. It also seeks to limit options for managing the commercial fishery. Should the BOF consider it necessary as a clarification, the department would submit a housekeeping proposal during the next Southeast BOF cycle to clarify that the Salisbury Sound portion of Section 13-A is included in the sac roe area for Sitka Sound as defined in 5AAC 27.195(a).

**Proposed by:** Ralph Guthrie

## **ACR NO. 2: ALLOW SET GILLNET RUNNING LINES WITHIN 500 FEET OF 18 FOOT HIGH TIDE MARK IN NAKNEK RIVER SHA TO REMAIN DURING DRIFT GILLNET OPENINGS**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The passage of Proposal 65 (December 2006) conflicts with 5 AAC 06.335 and 5 AAC 06.360(e). It unfairly discriminates against South Naknek setnet fishermen. As many as 50 percent of the South Naknek setnet fishermen fish without boats. They bring their running lines out to their buoys during extreme minus tides using four-wheelers. During normal tides, the buoys cannot be reached from shore. As might be expected, a disproportionate number of fishermen without boats are our elders. They are the persons most dependent upon access to the resource and are those with the fewest alternative sources of income. Unless the regulation is changed, a very large proportion of South Naknek setnet fishermen will be foreclosed from participating in the fishery because they will be unable to comply with the new requirement that funning lines be removed during drift gillnet operations.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** The proposed regulation is in conflict with the 5 AAC 06.335(b) and 5 AAC 06.360(e). Proposal 65, as offered, was to:

Allow set gillnet running lines within 500 feet of 18 foot high tide mark in Naknek River Special Harvest Area to remain in water after each harvest period.

The obvious purpose of the regulation was to establish a distance from the high tide mark within which the running lines of a set gillnet could remain in the water without being pulled. But, the proposal was then amended to have the opposite effect than was intended.

Amendment: Require removal during drift gillnet operations.

As originally offered Proposal 65 did not conflict with any other regulation. After the amendment was added however, the proposal came into conflict with an existing regulation 5 AAC 06.335(b).

5 AAC 06.355(b) No part of a drift gillnet may be operated within 300 feet of the side of a set gillnet and within 100 feet of the offshore end of a set gillnet. The 100 foot restriction does not apply seaward of the offshore setnet distance restrictions set out in 5 AAC 06.331(m) and (n).

5 AAC 06.360(e)(4) a drift gillnet may not be operated shoreward of the offshore end of a set gillnet; and (5) no part of a drift gillnet may be operated within 150 feet of the side of a set gillnet.

The existing regulations, 5 ACC 06.335(b) and 5 ACC 06.360(e), clearly assumes that both setnets and drift gillnets would occupy the river at the same time. The phrase “within 300 feet of the side of a set gillnet and within 100 feet of the offshore end of a set gillnet” only has meaning if drift gillnets and setnets are both in the water at the same time. If the setnets were removed the regulation would have no meaning. A drift net could not be, “within (or without) 300 feet of the side of a set gillnet and within 100 feet of the offshore end of a set gillnet” unless there were

setnets and gillnets in the water. The amended regulation therefore directly conflicts with the existing regulation, by prohibiting something that is expressly provided for by 5 ACC 06.335(b).

**or 3) correct an unforeseen effect of a regulation:** The board did not foresee the dramatic effect that the regulation would have on the ability of the setnet fishermen to participate in the fishery if they were required to remove their gear when the drift gillnet fleet was operating. As many as half (50%) of the setnetters do not have boats. They are completely without the ability to remove and replace their running lines multiple times during the season. These shore based fishermen without boats are dependent on extreme minus tides to bring their running lines out to their buoys and anchors. The timing of these extreme minus tides is unrelated to the timing of drift boat operations. In December 2006 there was no public comment pointing out that half (or more) of the South Naknek setnet fishermen would be unable to participate (or fully participate) in the fishery, if they were required to remove their gear during drift net operations. There is no indication that the boards knew or intended that the numbers of local setnet fishermen able to fully participate in the fishery would be drastically reduced if the amendment to Proposal 65 were adopted. The result, excluding a large proportion of local fishermen from the fishery was not considered and is an unforeseen consequence of the regulation.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** The Agenda Change Request has no impact on the number of fish caught or the allocation of fish between user groups, it affects only the methods by which fish are harvested.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** The regulation that will be changed is 5 AAC 06.360 Naknek River Special Harvest Area Management Plan.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** If this matter is not considered now 50 percent of the South Naknek setnetters will lose the ability to fish in 2007.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** I am a commercial setnetter living in South Naknek and have participated in the fishery most of my adult life.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Proposal 65 was carried as amended at the meeting on December 4-12, 2006. Bristol Bay Finfish will not be addressed again prior to the 2006 fishing season.

**Submitted By:** Lorraine Rawson

## **ADF&G STAFF COMMENTS ON ACR NO. 2**

**PRESENT SITUATION:** When fishing in the Naknek River Special Harvest Area (NRSHA), set gillnet running lines must be removed from the water during drift gillnet fishing periods.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR would allow set gillnet running lines to remain in the water at all times when fishing is allowed in the NRSHA.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**Additional Information:** At the October 2005 BOF work session ACR No. 36, which required set gillnet running lines to be removed from the water when not fishing, was submitted and accepted. At the March 2006 BOF meeting it was adopted. There were some initial logistical problems with the removal of the gear during the 2006 season but these problems were remedied by extending set gillnet fishing periods to low water.

During the December 2006 BOF meeting for Bristol Bay, three related proposals were submitted: Proposal 66 and 67 would require all set gillnet gear to be removed from the water when not fishing, and Proposal 65 would allow set gillnet running lines to remain in the water when within 500 feet of the 18-foot high tide mark at all times. Proposal 65 was amended and adopted requiring running lines to be removed from the water only during drift gillnet fishing periods. This regulation was in effect during the 2007 season with no citations written.

**Proposed by:** Lorainne Lawson, South Naknek set gillnet permit holder



## **ACR NO. 3: REDUCE MESH SIZE FOR GILLNETS TO PRESERVE THE GENETIC DIVERSITY AND HISTORICAL SIZE STRUCTURE OF THE YUKON RIVER KING SALMON**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Mesh size greater than 7.5 inches and mesh depth greater than 35 meshes deep, as currently used in the lower Yukon commercial and subsistence fishery, exploit the larger 6 and 7 year old fish at a rate which threatens to eliminate those unique genetic stocks.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** The Yukon River Chinook stocks once had great diversity in age and size structure. In 1980, 8 year old fish comprised 3.2% of the Canadian component. Today they are extinct. The currently used 8.5 inch mesh selectively over-harvests the larger 6 and 7 year fish and their steep decline as a percentage of the total run reflects their exploitation in the lower river gillnet fisheries. The department has agreed that 8.5 inch mesh increases exploitation of older and larger king salmon and that smaller mesh allows for harvest of king salmon throughout all age, sex and size classes. The department's own study also proves that 8.5 inch mesh catches mostly larger 6 year old fish while 7.5 mesh catches mostly 5 year old fish. (see, 2003 ADFG Yukon Salmon ASL attached).

**or 2) Correct an error in regulation:** Not applicable

**or 3) correct an unforeseen effect of a regulation:** When 8.5 inch mesh was authorized it was not known how effective such nets would be in selectively harvesting older fish. The extinction of 8 year old fish and near extinction of 6 and 7 year old fish was not a foreseen effect.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** We don't expect less fish to be harvested in the gillnet fishery. We simply want them to harvest more five year olds and fewer seven year olds.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** This is not allocative. There is a current abundance of king salmon in the Yukon. We want the gill netters to use smaller mesh so they can more effectively catch smaller kings and be less effective at catching larger kings. This is purely a conservation proposal to save the genetic diversity and preserve the historical size structure of the Yukon king salmon.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 05.360

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Three more years at the current exploitation rate could render the 7 year age class extinct.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Not applicable.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** A series of similar proposals were introduced at the January/February 2007 B.O.F. meeting, but were not seriously considered by the board because they all discussed the confusing issue of “windows” and were framed as allocative in nature rather than a genuine conservation concern.

**Submitted by:** Fairbanks AC, through Mike Kramer, Chair

## **ADF&G STAFF COMMENTS ON ACR NO. 3**

**PRESENT SITUATION:** Currently, with the exception of subsistence fishing gillnets in a few tributaries, there is no maximum mesh size imposed on a river-wide basis in the Yukon River. Based on the need to conserve Chinook or chum salmon, ADF&G has the ability to close and immediately reopen the subsistence fishery with mesh size restrictions. By emergency order, ADF&G also has the ability to direct the commercial harvest toward chum salmon by restricting gillnet mesh size to 6-inch or smaller, and to conserve chum salmon by restricting mesh size to 8-inch or larger. Currently, commercial gillnets with greater than 6-inch mesh may not be more than 45 meshes in depth in Districts 1 through 3, and no more than 60 meshes in depth in Districts 4 through 6. There is no restriction on the depth of gillnets used to harvest salmon for subsistence purposes.

Reducing the depth and mesh size of gillnets in the Yukon River was thoroughly discussed during the Alaska-Yukon-Kuskokwim (AYK) Region BOF regulatory meeting in February 2007. No changes to gillnet gear were adopted. A petition similar to this ACR was submitted by the Fairbanks Area Council in March 2007. The BOF voted not to accept the petition.

The department is committed to continue monitoring size and age trends in Yukon River Chinook salmon populations; ADF&G has initiated a mesh size study in 2007 to gain more information on age, sex, and size of Chinook salmon caught by various mesh sizes. Additionally, ADF&G plans to continue our participation in the U.S./Canada Joint Technical Committee Salmon Size Subcommittee (JTC SSS). Current JTC SSS projects include an updated time series analysis of trends in commercial weights in the lower river commercial fishery and average length-at-age in the District 1 commercial and test fisheries. Additionally, increased age-sex-length information from test fishing at the Eagle sonar will be utilized to estimate the age, sex and size characteristics of the Chinook salmon run passing into Canada and will give us our first accurate estimate of the age-class composition of the escapement in Canada. These data will also allow for a more accurate estimation of the exploitation rate by age. Prior to the next BOF cycle, ADF&G plans to attempt to formulate escapement goals that are based on older (greater than 2-ocean) Chinook salmon, rather than focusing on total numbers of fish estimated in spawning escapements.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This proposal seeks to prohibit mesh size greater than 7.5 inches and mesh depth greater than 35 meshes deep for subsistence and commercial salmon gillnets in the Yukon River drainage.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? No.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** It is likely harvest has had an impact on size and age of Yukon River Chinook salmon through time; however, environmental changes in the Bering Sea likely have had an effect also. It is difficult to determine whether these observed changes to the Chinook salmon population structure are environmental or fishery-induced, and any firm conclusion is likely founded on at least some degree of speculation. In addition, there appears to be changes in

age and size composition in other Western Alaska Chinook stocks such as Kuskokwim Bay, where the commercial harvest is taken by 6-inch and smaller mesh size gillnets.

The stock status report at the February BOF meeting provided the trend in brood year return age-class composition of Yukon River Canadian-origin Chinook salmon from 1979 to 1998. The trends provided by brood year age composition showed age-6 fish dominate the return with a long-term average of nearly 60% and the proportion has remained relatively stable over time. Age-7 fish dropped dramatically from pre-1982 return years (1989 run year), but have remained relatively stable since then. Age-8 fish, which have been absent in the run since the 1989 brood year, has only contributed greater than 1% of the return in two years. Further, the vast majority of age-8 fish spent two years in freshwater while all other age classes generally spend only one year in freshwater. In other words, the vast majority of Yukon River Chinook salmon that are eight years old upon return spend five years in the ocean, the same as for most seven-year-old fish.

Though commercial average weights have decreased (Bigler et al. 1996), there is no evidence that the size at age of Chinook salmon have changed basin-wide (Hyer and Schluesner 2005), and the age class composition of the brood year return has remained relatively stable since the mid-1980s. Harvest has been foregone in a number of recent years because of conservative management since 2000. Record escapements were recorded for the Canadian mainstem stock in 2001 and 2003, and escapement goals in the Tanana River have been exceeded by wide margins in most years since 2000. The exploitation rate on the Canadian-origin stock by Alaskan fishers has gone from an average of about 74% in the 1980s and 70% in the 1990s, to an average of about 48% from 2001 to 2006. Although the subsistence harvest continues to remain stable near 50,000 Chinook salmon annually, commercial harvests have decreased over 60% from an average of 100,000 annually (1989 to 1998) to the recent 5-year average (2002 to 2006) of nearly 40,000 fish. Reduced exploitation allows for increased passage of all age, sex and size components of the various stocks in the Yukon River.

**Proposed by:** Fairbanks Area Council, through Mike Kramer, Chair

**ACR NO. 4: ADDRESS YUKON RIVER SALMON  
CONSERVATION CONCERNS IN REFERENCE TO  
US/CANADA TREATY OBLIGATIONS**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Interception of salmon migrating to Yukon, Kuskokwim by Area M commercial fishing.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW.** If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) **Fishery conservation purpose or reason:** Conservation reasons, as mandated by United States/Canada Yukon Salmon Treaty for conservation and rebuilding of Yukon salmon stocks.

or 2) **Correct an error in regulation:** Not applicable.

or 3) **correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** Not an allocative agenda change request.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 39.220, 5AAC 09.100, 5AAC 09.200, 5AAC 09.301, 5 AAC 09.310,

5 AAC 09.365, 5 AAC 09.366, 5 AAC 11.101, 5 AAC 12.100, 5 AAC 12.200, 5 AAC 12.310

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Conservation concerns, Area M salmon intercept fisheries expanded contrary to state constitution mandate for conservation and sustain yield management.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Commercial, subsistence and sport fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** United States and Canada Yukon Salmon Conservation Treaty was ratified by Congress and became international law. The state has ignored this law for six years, since 2001.

**Submitted by:** Jesse Foster

## **ADF&G STAFF COMMENTS ON ACR NO. 4**

**PRESENT SITUATION:** The AYK Region and Area M finfish regulation proposals were recently considered by the BOF during the regular cycle meetings in February 2007. There are no salmon stocks of conservation concern in the AYK Region as defined in the Policy for the Management of Sustainable Salmon Fisheries. In February 2007, the BOF discontinued stock of yield concern status for Yukon River summer and fall chum as well as Kuskokwim River Chinook and chum salmon stocks. The Yukon River and Norton Sound Subdistricts 5 and 6 Chinook salmon stocks and the Norton Sound Subdistricts 2 and 3 chum salmon stock remained designated as yield concerns. The Norton Sound Subdistrict 1 chum salmon stock was changed from a stock of management concern to a stock of yield concern.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This proposal seeks to restrict or eliminate all Area M (Alaska Peninsula, Aleutian Islands, and Atka-Amlia) commercial salmon fisheries.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? No.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** None.

**Proposed by:** Jesse Foster

## **ACR NO. 5: REVISE STOCKED WATERS MANAGEMENT PLAN**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing** The current stocked waters management plans for the Upper Copper/Upper Susitna (UCUS) and Arctic-Yukon-Kuskokwim (AYK) management areas do not allow the bag limit in stocked waters to be reduced by emergency order. The Sport Fish Division hatcheries are currently at reduced production levels due to aging facilities and loss of warm water for accelerated rearing. The department has adjusted for these production shortfalls by reducing the number of fish stocked in some waters and stopping stocking of other waters altogether to maintain adequate numbers and sizes of fish in high-use waters. If production declines continue, recreational fishing opportunity and the quality of fishing will also decline in high-use waters because most stocked fish populations will be comprised of fewer and smaller fish.

The department requests that the board amend the existing management plans to allow the department to reduce bag limits, institute catch and release, or modify methods and means in stocked waters by emergency order. The department will manage the stocked water fisheries during times of reduced hatchery production to provide the greatest benefit possible to sport anglers.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** At the time of the adoption of the stocked waters management plans in the AYK region, the department did not anticipate the extent of reduced hatchery production resulting from the loss of the warm water source and facility decline. The plans were designed for the hatchery production at the time and the different management approaches within the plans do not provide for “inseason” actions to account for reduced hatchery releases.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** If adopted, this agenda change request affects sport fish users in the AYK and UCUS management areas and would not impact subsistence, personal use or commercial fisheries within these areas.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not Applicable

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 52.065 Upper Copper River and Upper Susitna River Area Stocked Waters Management Plan and 5 AAC 70.065 Arctic-Yukon-Kuskokwim Region Stocked Waters Management Plan.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Current production issues with Sport Fish Division hatcheries have

resulted in a 35% reduction in fish production in 2007 compared to the 1997-2006 average. To adjust for this reduction the department has reduced or eliminated the number of fish stocked in some waters to maintain adequate numbers and sizes of fish in more popular stocked waters. It is anticipated that hatchery production will remain at reduced levels or continue to decline until the new hatcheries begin operation in approximately 3-4 years and the quality of the fishing experience in the region's stocked waters will soon reach an unacceptable level. This will occur prior to the next board cycle for the respective areas covered by these plans.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** The Alaska Department of Fish and Game, Sport Fish Division manages the stocked waters in the AYK Region [UCUS and AYK management areas].

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No, the board has not received a proposal or an agenda change request on this issue before.

**Submitted by:** Alaska Department of Fish and Game



## STAFF COMMENTS ON ACR NO. 5

**PRESENT SITUATION:** The existing stocked waters management plans (5 AAC 52.065 and 5 AAC 70.065) for the Upper Copper/Upper Susitna (UCUS) and Arctic-Yukon-Kuskokwim (AYK) management areas do not provide the department emergency order authority to modify bag limits or methods and means in stocked waters. Sport fish hatchery production has been reduced due to aging facilities and loss of warm water for accelerated rearing. As a result, the department has adjusted for these production shortfalls by reducing the number of fish stocked in some waters and has ceased stocking other waters to maintain adequate numbers and sizes of fish in high-use waters. Hatchery production is expected to remain at reduced levels until new hatcheries in Fairbanks and Anchorage are completed.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This agenda change request would modify the UCUS and AYK areas stocked waters management plans and provide the department the authority to modify bag limits, institute catch and release, or modify methods and means in stocked waters of the AYK region by emergency order. The ability to modify bag limits or methods and means in stocked waters would provide another tool for the department to maintain adequate numbers and size of fish in high-use lakes until hatchery production returns to full capacity.

### STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes, at the time of the adoption of the stocked waters management plans for the UCUS and AYK areas, the department did not anticipate the extent of reduced hatchery production resulting from the loss of the warm water source and facility decline. The management plans were designed for the hatchery production at the time and the different management approaches within the plans do not provide for “inseason” actions to account for reduced hatchery production in a given year.

**Additional Information:** The current production problems with Division of Sport Fish hatcheries have resulted in a 35% reduction in fish production in 2007 compared to the 1997 to 2006 average. To adjust for this reduction, the department has reduced or eliminated the number of fish stocked in some waters to maintain adequate numbers and sizes of fish in more popular stocked waters. It is anticipated that hatchery production will remain at reduced levels or continue to decline until the new hatcheries begin operation in approximately 3 to 4 years.

**Proposed by:** Alaska Department of Fish and Game

**ACR NO. 6: ADD NEW MANAGEMENT MEASURES TO PREVENT OVERHARVEST AND ENSURE ACCURATE ACCOUNTING, BIOLOGICAL SAMPLING AND ENFORCEMENT OF STATE-WATERS SCALLOP HARVEST**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The current state-waters vessel-based limited entry program is currently scheduled to expire December 31, 2008. Once this program expires, state waters will be open to scallop fishing by any vessel beginning January 1, 2009. Federal waters will remain under the federal license limitation program. This is a problem because the state-federal boundary crosses several of the commercial scallop beds, but scallops are currently managed without regard to this boundary. New management measures may be needed to prevent over-harvest and to ensure accurate accounting, biological sampling, and enforcement of state-waters scallop harvest, where permits will be unlimited, relative to federal waters, where there are 9 permits. Expiration of this limited entry program will occur before the next regularly scheduled miscellaneous shellfish meeting.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

1) **Fishery conservation purpose or reason:** To prevent overharvest of scallops in state waters when the vessel limited entry program goes away for state waters.

or 2) **Correct an error in regulation:** Not applicable.

or 3) **correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This ACR pertains to the need for a review of management controls for scallops in state waters given the anticipated expiration of limited entry for this fishery.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not Applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 38, sections 076, 167, 168, 180, 220, 221, 224, 420, 425, and 430.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The vessel-based limited entry program is expected to sunset on December 31, 2008, part way through the 2008/09 commercial scallop season. The new plan will need to be in place prior to January 1, 2009, which is before the next regularly scheduled statewide miscellaneous shellfish meeting in March, 2009.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** ADF&G is the management agency for scallops in state waters and in federal waters of Alaska, as delegated in the Federal Scallop Fishery Management Plan.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF**

**SO, DURING WHICH BOARD OF FISHERIES MEETING.** No, this ACR has not been considered before.

**Submitted by:** Alaska Department of Fish and Game

## **ADF&G STAFF COMMENTS ON ACR NO. 6**

**PRESENT SITUATION:** The current state-waters vessel-based limited entry program is scheduled to expire December 31, 2008. Once this program expires, state waters will be open to scallop fishing by any vessel beginning January 1, 2009. Federal waters will remain under the federal license limitation program. This is a problem because the state-federal boundary crosses several of the commercial scallop beds, but scallops are currently managed without regard to this boundary. New management measures may be needed to prevent overharvest and to ensure accurate accounting, biological sampling, and enforcement of the state-waters scallop harvest, where permits will be unlimited, relative to federal waters, where there are nine permits. Expiration of this limited entry program will occur before the next regularly scheduled miscellaneous shellfish BOF meeting during the 2008–2009 regulatory cycle.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** If accepted, the agenda change request will allow the BOF to implement regulations for managing a state-waters only scallop fishery. Prior to the regulatory meeting department staff will develop recommendations for the board and public to consider for addressing harvest accounting, biological sampling, and enforcement of the state-waters scallop fishery.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** Yes.

New regulations are required to prevent overharvest of scallops in state waters when the vessel limited entry program for state waters expires.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes, current regulations for the scallop fishery in various management areas of the state were developed under the presumption of managing state and federal waters as one unit.

**Additional Information:** None

**Proposed by:** Alaska Department of Fish and Game

## **ACR NO. 7: REVIEW NAKNEK RIVER SPECIAL HARVEST AREA 3:1 DRIFT GILLNET TO SET GILLNET RATIO FOR OPEN PERIODS**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. In the Naknek River Special Harvest Area the 3:1 drift to set net openings ratio did not attain the board's stated desired results.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW.** If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) **Fishery conservation purpose or reason:** Not applicable.

or 2) **Correct an error in regulation:** Not applicable.

or 3) **correct an unforeseen effect of a regulation:** The board's stated guideline of 27% set net catch can not be attained with a 3:1 fishing time ratio. The board used an ADF&G "ratio to catch" chart that was untested and consequently flawed.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** Not applicable.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

The practical application of the newly enacted 3:1 drift to set ratio in the NRSHA during the 2007 season showed that ratio wasn't able to attain the board's stated guideline of 27% set catch.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 06.360(c) On or after June 27, when the department projects that the sockeye salmon escapement into the Naknek River will exceed 800,000 fish and the Kvichak River escapement projection is one or more days behind schedule for reaching its escapement goal, the commissioner may open, by emergency order, the NRSHA to the drift gillnet and set gillnet fisheries. The drift gillnet and set gillnet fisheries will open separately, with a seasonal ratio of [three drift gillnet gear fishing periods to every one set gillnet] **two drift gillnet fishing periods to every one set gillnet fishing period.**

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The next cycle meeting is 2009/2010. The wait will have a devastating effect upon the lives of set netters. It will especially affect those who have little other opportunity, and depend upon fishing for a significant portion of their livelihood.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST** (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Commercial fisherman-set net.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No

**Submitted by:** Allen Bauman

## ADF&G STAFF COMMENTS TO ACR NO. 7

**PRESENT SITUATION:** When fishing in the NRSHA the current ratio of drift to set gillnet periods is 3:1.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR would change the current drift to set gillnet ratio for the NRSHA to two drift gillnet periods for every one set gillnet period.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

1. **Is there a pressing fishery conservation purpose or reason?** No.
2. **Does the agenda change request correct an error in regulation?** No.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**Additional Information:** The allocation formula for the NRSHA has changed three times since 1997. In 1997, the BOF allocated fish harvested in the Naknek/Kvichak District (excluding the NRSHA) at 84% for the drift gillnet fleet and 16% for the set gillnet gear group with the set gillnet allocation split equally among the Naknek and Kvichak Sections (8% each). Prior to the 1998 season, when both gear groups were moved into the NRSHA they both fished at the same time. Between 1998 and 2003, when the Naknek/Kvichak District was closed to both gear groups, the drift gillnet and set gillnet fisheries alternated tides in the NRSHA. During the December, 2003 BOF meeting, proposals 57 and 59 sought to apply the 84% drift and 16% set gillnet allocation for the Naknek/Kvichak District to the NRSHA. That allocation plan was adopted. In 2006, 11 proposals were submitted dealing with the NRSHA allocation plan. Proposals included alternating tides, two drift for every one set gillnet period, three drift for every one set gillnet period, and 67% drift to 33% set gillnet. The BOF adopted a plan allowing three drift to one set gillnet period.

During the 2007 season, 15 drift periods and six set gillnet periods were fished in the NRSHA, with a final harvest allocation of 80% for drift and 20% for set gillnet.

Percentages			
Year	NRSHA Drift	NRSHA Set	Allocation plan
2001	74	26	alternate periods
2002	64	36	alternate periods
2003	65	35	alternate periods
2004	88	12	84% drift/16% set
2005	81	19	84% drift/16% set
2006	80	20	84% drift/16% set
2007	80	20	three drift to one set
Average	76	24	

Prior to 2001, the set gillnet fleet could remain out in the Naknek/Kvichak District with only the drift gillnet fleet in the NRSHA.

**Proposed by:** Allen Bauman, set gillnet permit holder.

**ACR NO. 8: CHANGE DESIGNATION OF YUKON RIVER KING SALMON FROM A "YIELD CONCERN" TO A "MANAGEMENT CONCERN"**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Yukon River king Salmon despite concerted conservation efforts continue to decline in productivity, size, age structure, and percentage of females. Additionally, high sea's by-catch is at all-time high, ocean conditions are moving into a decline in productivity, and the BASIS program is reporting extremely low numbers of juveniles. While individually they might not be a problem, the cumulative effect will be devastating to Yukon River kings.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW.** If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) **Fishery conservation purpose or reason:** Declining viability of the Yukon River king salmon run.

or 2) **Correct an error in regulation:**

or 3) **correct an unforeseen effect of a regulation:**

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** Moving king salmon from a "Yield Concern" to a "Management Concern" while having an effect on allocation is not allocative in nature.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** Not sure what regulations are effected in regards to moving Yukon River kings from a "Yield" concern to a "Management" concern.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Continued viability of the Yukon River king salmon run is in jeopardy and cannot sustain current management practices as a "Yield" concern.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST** (e.g., commercial fisherman, subsistence user sport fisherman, etc.). Subsistence user and advocate.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Stock status is regularly scheduled for review.

**Submitted by:** Michael E. Smith

## **ADF&G STAFF COMMENTS ON ACR NO. 8**

**PRESENT SITUATION:** The BOF designated the Yukon River Chinook salmon stock as a stock of yield concern in September 2000 and that designation has continued through two subsequent BOF cycle meetings in January 2004 and February 2007. A stock of management concern is defined as “a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the Sustainable Escapement Goal (SEG), Biological Escapement Goal (BEG), Optimal Escapement Goal (OEG), or other specified management objectives for the fishery” (5 AAC 39.222(f)(21)). The *Policy for the Management of Sustainable Salmon Fisheries* (SSFP) further goes on to define chronic inability as “the continuing or anticipated inability to meet escapement objectives over a 4 to 5 year period”. Based on the definition of management concern in the SSFP, the Yukon River Chinook salmon stock does not meet the criteria to be classified as a stock of management concern. The addition of stock status information from the 2007 season does not change the recommendation by ADF&G based on the definitions for stocks of concern in the SSFP.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to change the determination of the Yukon River Chinook salmon stock from a yield concern to a management concern.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? No.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** None.

**Proposed by:** Michael E. Smith



## **ACR NO. 9: REVISE YUKON RIVER KING SALMON ESCAPEMENT GOALS TO ADDRESS QUALITY OF ESCAPEMENT**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Escapement goals need to be reviewed in light of low productivity and the continued decline in the quality of escapement. A declining percentage of females as a component of the run, an overall reduction in the relative size of salmon making to the spawning grounds, lack of productivity from brood years and new information on the age structure of the by-catch by the pollock industry dictate a review of the escapement goals to assure quality escapement.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Continued decline in the productivity of Yukon River kings.

**or 2) Correct an error in regulation:**

**or 3) correct an unforeseen effect of a regulation:** Current escapement goals do not take into account the quality of the fish getting to the spawning grounds.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** Only allocative between users and non-users.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** Not sure.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Continued productivity declines, as well as additional threats to the run, require the board to act promptly to assure the continued viability of Yukon River Kings.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Subsistence user and advocate.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Escapement goals are reviewed on a regular basis.

**Submitted by:** Michael E. Smith

## **ADF&G STAFF COMMENTS ON ACR NO. 9**

**PRESENT SITUATION:** During the AYK Region BOF cycle meeting in February 2007, ADF&G presented a review of escapement goals for Yukon River Chinook salmon. Federal agencies, non-government organizations (NGO) and the general public were invited to attend and/or participate in the escapement goal review process in AYK Region. No revisions of existing escapement goals in the Yukon River were recommended. Existing escapement goals will sustain Yukon River Chinook salmon stocks. Escapement goals will be reviewed again over the next two years prior to the next BOF cycle for the AYK Region in 2009–2010. Again, this process will be open to all participants and observers. The department has informed the BOF and public about plans for attempting to formulate escapement goals based on older (greater than 2-ocean) Chinook salmon, rather than focusing on total numbers of fish estimated in spawning escapements.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to review Yukon River Chinook salmon escapement goals through analysis of percentage of females, age, and size of fish in spawning escapements.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? No.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** None.

**Proposed by:** Michael E. Smith

## **ACR NO. 10: READDRESS USE OF "WINDOWS" FOR SUBSISTENCE FISHERY MANAGEMENT**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The use of the subsistence restrictions or “windows” as they are commonly referred to adversely affect the continued viability of Yukon River king salmon, by concentrating subsistence fishing effort on a relatively small portion of the run instead of spreading the harvest out to minimize any adverse effect on any given stock. Additionally, it requires subsistence users to fish regardless of weather conditions that jeopardize their health and resource preservation.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** If any one or more of the three criteria set forth about is not applicable, state that it is not applicable.

**or 2) Correct an error in regulation:**

**or 3) correct an unforeseen effect of a regulation:** The use of subsistence restrictions or “windows” hampers the fulfillment of subsistence needs in a safe and biologically sound manner while increasing the number of fish needed for commercial openings.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** While there may be a small increase in subsistence harvest, historically subsistence users take only 50-60 thousand fish, this would not change by any significant amount and it would be better to spread what is a static harvest out over the length of the entire run.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 05.360

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Low quality of escapement and continued yield failures should not be allowed to continue without efforts to address the problem in some fashion prior to the next board cycle.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Subsistence user and advocate.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Various board meeting over the years.

**Submitted by:** Michael E. Smith

## **STAFF COMMENTS ON ACR NO. 10**

**PRESENT SITUATION:** The subsistence fishing “windows” schedule for the Yukon River was originally adopted by the BOF in January 2001. The issue of subsistence fishing “windows” was thoroughly discussed during the AYK Region BOF cycle meeting in February 2007. No changes were made as to when the fishing schedule is established or how long the schedule is in effect. The subsistence fishing schedule has been liberalized inseason when a surplus above escapement and subsistence needs is identified. When the run is low, however, the schedule may remain in place or even become more restrictive to either spread the harvest out over the entire run or to possibly reduce harvest. Management of the subsistence fishery when runs are low is dependent on the subsistence fishing schedule. Additional subsistence fishing time has been allowed during recent years if fishing is impacted by high water and debris based on a surplus being available and input from local fishers.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to eliminate the subsistence salmon fishing schedule in the Yukon River.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? No.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** None.

**Proposed by:** Michael E. Smith

## **ACR NO. 11: REVIEW OF THE DEMERSAL SHELF ROCKFISH MANAGEMENT TO AVOID UNATTENDED CLOSURES IN SPORT FISHERY**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing. Inadequate Demersal Shelf Rockfish (DSR) sport allocation in the Southeast Outside (SEO) subdistrict may result in guided and unguided sport fishing closures for salmon and halibut, as well as DSR, in 2008.

Time and area closures for the outer coast of Southeast Alaska to sport fishing for salmon and halibut, coupled with new restrictive guided halibut regulations, will be devastating to the guided sport fishing industry and economies of Southeast Alaska's coastal communities.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** When the board set DSR allocations in 2006, it was to allow the commercial and sport halibut fisheries to have enough DSR by catch to prosecute their fisheries.

In 2008, there is a strong likelihood of closing the sport fisheries for halibut and salmon, due to exceeding the DSR sport allocation, and at the same time, conducting a directed commercial DSR fishery. We believe neither was the intent of the board.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This Agenda Change Request is allocative, but new information is compelling. See next item.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** When the board set the DSR sport allocation in February 2006, the allocation was based on the estimated numbers of DSR harvested in the sport fishery, multiplied by the average weight of yelloweye rockfish in the commercial longline fishery.

The average weight of yelloweye rockfish in the sport fishery in 2006, has been found to be 18 percent higher than the average weight, used in the past to calculate the sport fish harvest.

If the board had multiplied the estimated numbers of DSR harvested in the sport fishery, by the average weight of yelloweye rockfish harvested in the sport fishery, the DSR sport allocation would have been higher.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 47.065 Demersal shelf rockfish delegation of authority and provisions for management. And as described in 5 AAC 47.065 and 5 ACC 28.105(a)(4)

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Southeast Groundfish proposals are scheduled to be addressed in February 2009. An inadequate DSR sport allocation in the SEO subdistrict will likely result in

guided and unguided sport fishing closures for salmon and halibut, as well as DSR, in 2008.

This matter must be addressed prior to May 2008.

Time and area closures for the outer coast of Southeast Alaska to sport fishing for salmon and halibut, coupled with new restrictive guided halibut regulations, will be devastating to the guided sport industry and economies of Southeast Alaska's coastal communities.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Guided sport fishing association.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No.

**Submitted by:** Sitka Charter Boat Operators Association

## **ADF&G STAFF COMMENTS ON ACR NO. 11**

**PRESENT SITUATION:** The sport fishery is currently allocated 16% of the Southeast Outside Subdistrict demersal shelf rockfish (DSR) Total Allowable Catch (TAC). The TAC was 410 mt in 2006 and 2007; this equates to an annual sport fishery quota of 66 metric tons.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** The ACR seeks to increase the sport fishery DSR allocation in the Southeast Outside Subdistrict.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No, the TAC was not reached or exceeded in 2007.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No. The department is directed to manage the sport fishery within its 16% allocation of DSR utilizing the management measures provided in 5 AAC 47.065 (demersal shelf rockfish delegation of authority and provisions for management) which include time and area closures.

**Additional Information:** The sport harvest of 77 metric tons during 2006 required further restrictions to the sport fishery in 2007. The measures imposed during 2007 reduced harvest to approximately 69 metric tons. Even with the added restrictions, the sport fishery DSR allocation was exceeded in 2006 by 17% and in 2007 by 5%. The DSR total allowable catch for 2008 will be set in early November, 2007. If the TAC remains the same or increases, no further restrictions to the sport fishery will be necessary; however, if the TAC decreases, management measures provided for in 5 AAC 47.065 (demersal shelf rockfish delegation of authority and provisions for management) would likely be enacted. These management measures may include further reduction of bag, possession, and annual limits and may also include time and/or area closures.

**Proposed by:** Sitka Charter Boat Operators Association

## **ACR NO. 12: ALLOW SUBSISTENCE HARVEST OF CLAMS IN KETCHEMAK BAY**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing**

The rural community members of Port Graham, Nanwalek, and Seldovia have historically harvested hard shell clams for subsistence use in the Kachemak Bay. The regulations currently in place do not accurately reflect the traditional use area to the Port Graham Sub-district; this regulation makes it impossible to participate in the hard shell clam harvest as there are no harvestable clam populations in the Port Graham Sub-district since the 1964 earthquake.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** The regulation effected by this proposal is 5 AAC 02.310, subsistence Shellfish Fishery. The new regulation should read; "Subsistence harvest of clams is prohibited except in the Kachemak Bay and Port Graham Sub-district."

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This proposal is not a request for allocation. It requesting a regulation change to allow a traditional subsistence harvest to continue as it has for many generations.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Non applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 02.310 Subsistence Shellfish Fishery: a) In the non-subsistence area described in 5 AAC 99.150 (a)(3), and except as otherwise provided in this section, no person may take shellfish for subsistence purposes. B) Clams may be taken in the Port Graham Sub-district.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Since this request in this proposal addresses an unforeseen effect of a regulation, it is imperative that it be addressed as soon as possible. Waiting 3 years to fix this oversight would preclude the subsistence users from practicing their traditional subsistence activities in their historic areas.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** The people of Port Graham have been subsistence harvesting for many generations. We have historically harvested clams in the Kachemak Bay area and are anxious to remedy the problem raised by the existing regulation so that this tradition may continue.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** This issue has not been brought before the board prior to the submission of this proposal.



**Submitted by:** Herman N. Moonin Jr., Port Graham Village Council

## **ADF&G STAFF COMMENTS ON ACR NO. 12**

**PRESENT SITUATION:** Presently, the BOF has only adopted a positive customary and traditional use finding for the Cook Inlet Area for clams in the Port Graham Subdistrict (5 AAC 02.311). Consequently, regulations provide for a subsistence clam fishery in the Port Graham Subdistrict only (5 AAC 02.310). All other noncommercial harvesting of shellfish is governed by personal use regulations, and requires a sport fishing license (5 AAC 77.010(a)).

Areas outside the Anchorage-Matsu-Kenai Nonsubsistence Area include the coastal portions of the Southern, Barren Islands, and Outer districts of Lower Cook Inlet, including Jakolof and Kasitsna bays in what is considered Kachemak Bay. The balance of the Cook Inlet shellfish districts and subdistricts are within the Anchorage-MatSu-Kenai Nonsubsistence Area (5 AAC 99.015(d) defined by the Joint Board. The BOF may not permit subsistence fishing in a nonsubsistence area (AS 16.05.258(c)).

Within the Southern District, which includes Kachemak Bay, 5 AAC 38.318(d) establishes an annual guideline harvest level of 40,000 pounds for the commercial clam fisheries and 160,000 pounds for the non-commercial clam fisheries. The sport and personal use clam fisheries are open all year and are managed under minimum legal size, bag and possession limits of 1.5 inches and 1,000 clams for littlenecks and 2.5 inches and 700 clams for butter clams (5AAC 58.022 (12) and (13)). The BOF may expand its customary and traditional use finding beyond the Port Graham Subdistrict to other appropriate areas or portions of districts, outside the nonsubsistence area.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** The ACR seeks to extend the subsistence clam fishery beyond the Port Graham Subdistrict into “Kachemak Bay.” A small portion of what is considered Kachemak Bay between the Port Graham subdistrict boundary and Jakolof Bay is outside the nonsubsistence area and could be opened to subsistence taking of clams if the customary and traditional use finding were modified and appropriate subsistence regulations were adopted. However, an action to open all of Kachemak Bay to subsistence harvest of clams would require that the Joint Board amend its non-subsistence area definition.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason? No.**

**2. Does the agenda change request correct an error in regulation? Yes.**

The BOF adopted the current customary and traditional use finding for Cook Inlet shellfish in 1982, prior to extensive research by the Division of Subsistence documenting the harvest clams and a wide range of other marine invertebrate resources by residents of Nanwalek, Port Graham, and Seldovia, including harvests outside the Port Graham Subdistrict. It is appropriate to review the present regulation limiting the positive customary and traditional use finding to clams and closing all other subsistence shellfish fisheries in light of information collected since the board action in 1982.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** The Alaska Joint Board of Fisheries and Game will be meeting prior to the October 2007 work session to adopt, amend, or repeal regulations in Title 5 of the Alaska Administrative Code, concerning regulations pertaining to Joint Board nonsubsistence areas. Decisions made at that time may affect the department's comments pertaining to the above ACR. However, none of the proposals before the Joint Board specifically request changes to the Kenai Peninsula portion of the Anchorage-Matsu-Kenai Nonsubsistence Area (5 AAC 99.015(3)).

**Proposed by:** Herman N. Moonin Jr.

## **ACR NO. 13: MODIFY FISHING IN THE OUTER PORT HEIDEN SECTION TO ADDRESS SUBSISTENCE NEEDS**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.** Since 1990 the Outer Port Heiden Section of Area M has been closed to commercial fishing. At the February 11, 2007 Board of Fisheries meeting, Proposal 210 was submitted by local fisherman to reduce the fishing area around a small area (Inner Port Heiden) from three miles offshore, to one mile. The day after public comment was closed; the board amended Proposal 210 to expand the fishery to three miles along the entire coast. The problem is that in amending and then passing this proposal no scientific evidence was utilized and no adequate notice to the public was given, with the result being that the local Port Heiden subsistence fishermen are now seeing this fishery being completely depleted. All residents of Port Heiden, plus the Native Counsel, have signed a petition saying that their fishery is now effectively zero, and urging the repeal of 210. See the attached petition and letters.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** As noted in the attached petition and letters from all of the Port Heiden adult residents, the subsistence fishery at Port Heiden has been decimated by the adoption of the amended version of Proposal 210. As stated in the July 9, 2007 letter from Native Council of Port Heiden president in just this one short season since the passage of 210 the subsistence fishery has gone from 50-150 fish per tide per net, to 1-2 fish per tide per net.

**or 2) Correct an error in regulation:** N/A

**or 3) correct an unforeseen effect of a regulation:** The unforeseen effect is as stated above in 2(1). Although the board's stated purpose at the February 11, 2007 meeting was to reduce the over-escapement problem further up the coast, the effect was to wipe out the subsistence fishery at Port Heiden.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This has never been an issue of whether one group of fishermen gets more fish than another group. Rather, the board's stated purpose in passing Proposal 210 was to reduce the over-escapement numbers up the coast from Port Heiden. But the board has gone from one extreme to another -- from no fishing since 1990, to largely unchecked and greatly expanded fishing, all without any studies, scientific evidence, adequate public notice, or true public discussion.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** N/A.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** Proposal 210, adopted at the February 11, 2007 Board of Fisheries meeting.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** As stated in the accompanying petition and letters signed by the Port Heiden residents, this subsistence fishery has been effectively reduced to zero. The local

residents have extremely limited means of food and support, and they cannot wait another two years for the matter to be heard on the board's regular cycle.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** This law firm represents the Lake and Peninsula Borough, and it is on the borough's behalf, at the direction of the borough manager that this petition is being submitted.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Proposal 210 was considered at the February 11, 2007 meeting, but the board went exactly opposite the direction requested in the proposal, with no supporting evidence, and no notice to the public that the board might expand the fishery. On June 11, 2007, the undersigned submitted a petition pursuant to 5 AAC 96.625 and AS 44.62.220 seeking a repeal of Proposal 210. The board denied the petition on July 2, 2007, but invited this out-of-cycle petition via 5 AAC 96.625.

**Submitted by:** Lake and Peninsula Borough

## **ADF&G STAFF COMMENTS ON ACR NO. 13**

**PRESENT SITUATION:** By regulation, that portion of the Outer Port Heiden Section southwest of a line at long 158°36'00"W may open to commercial salmon drift gillnet fishing on June 20 and closes on July 31. The weekly fishing period is 6:00 a.m. Monday to 6:00 p.m. Wednesday (2.5 days per week). The section is managed based on the run strength of Meshik River sockeye salmon stocks. If that portion of the Egegik District as specified in 5 AAC 06.359(c) is closed for the conservation of Ugashik River sockeye salmon, then commercial fishing time or area in the Outer Port Heiden Section may be reduced (5 AAC 09.369(l)).

The Outer Port Heiden Section was opened to commercial salmon fishing by the BOF in February of 2007 to allow harvest of Meshik River bound sockeye salmon stocks for the first time since 1990. During 2007, the section was open to commercial salmon fishing 2.5 days per week between June 20 and July 31, or a total of 18 days. The season total commercial salmon harvest from the Outer Port Heiden Section was about 388,625 sockeye and 287 Chinook salmon. The escapement goal of 20,000 to 60,000 sockeye salmon in the Meshik River was met with 42,200 fish documented by aerial surveys. Aerial surveys also documented 2,750 Chinook salmon in the Meshik River, though no escapement goal for Chinook currently exists for this system. Red Bluff, Yellow Bluff, and Highland creeks are other important sockeye salmon producing streams that drain into Port Heiden near the mouth of the Meshik River. In 2007, Red Bluff and Yellow Bluff creeks together had sockeye salmon escapements of 12,000 fish and Highland Creek had an escapement of 1,000 fish. These systems do not have escapement goals. The total sockeye salmon escapement for systems draining into Port Heiden in 2007 was 55,200 fish.

Residents of the community of Port Heiden participate in a set gillnet subsistence fishery in the Inner Port Heiden Section. The board made a positive customary and traditional use determination for the salmon stocks in the Alaska Peninsula Area and established 34,000 to 56,000 salmon as the amount reasonably necessary to provide for subsistence uses (ANS) (5 AAC 01.416), but has not made a more specific ANS finding solely for the Inner Port Heiden Section.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Close or reduce the commercial fishing time in the Outer Port Heiden Section.

**STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly.

The department believes that the intended effect of the regulation was fulfilled. As the board intended, escapements to the Meshik River fell within the escapement goal range. Moreover, the total sockeye escapement of 55,200 fish was at the upper end of the range, allowing for ample subsistence opportunity (estimated escapement was 40,000 in 2004 and 65,000 in 2005). The subsistence fishery was open continuously, 7 days per week, 24 hours per day; while the commercial fishery was open 2.5 days per week from June 20 through July 31 as stated in regulation. However, the community of Port Heiden and the Lake and Peninsula Borough have raised concerns that the changes to commercial fishery management with the 2007 regulations in

the Outer Port Heiden Section resulted in reduced subsistence salmon harvests by Port Heiden residents in the 2007 fishing season. The board may want to review available data for the 2007 commercial and subsistence fisheries to determine whether an unforeseen effect has occurred and resulted in an inadequate opportunity for subsistence uses (AS 16.05.258(b)).

**Additional Information:** Over the most recent 10 years, on average, the State of Alaska issued three subsistence permits from Port Heiden area residents per year. Four subsistence permits were issued in 1997, three permits every year between 1998 and 2005, and two permits in 2006. The average total harvest per year between 1997 and 2006 was 40 Chinook and 100 sockeye salmon. This amounts to 13 Chinook and 33 sockeye salmon per permit holder per year. More residents of Port Heiden use subsistence salmon resources than is reported to the department; as people share the use of nets and share catches. Permit reports are considered a minimum estimate of harvest and participation; and are not expanded to estimate harvest by other participating households.

In early September 2007, department staff conducted interviews with 21 of the 26 Port Heiden households to gather background information on the subsistence salmon fishery. Most of the households participated in subsistence salmon fishing either harvesting or processing salmon. Several people reported longer fishing times were required in order to obtain fish compared to previous years; and significantly reduced catches as a result. Preliminary results of the survey found that of the 21 households interviewed, 14 fished for salmon in 2007 with a reported subsistence set gillnet harvest of 120 sockeye and 50 Chinook salmon. Only one of these households had a subsistence permit, reporting a harvest of 30 sockeye and 1 Chinook. In the survey, these same households reported a subsistence set gillnet harvest of 768 sockeye salmon and 135 Chinook salmon for 2006.

A meeting was held on September 6, 2007 with 12 community residents attending to hear the department's season summary reports, and to engage in a dialogue with department staff about local residents concerns about the fishery and fishery management this past season. A detailed report of findings will be prepared if the Board adopts the agenda change request and schedules the topic for a future meeting.

**Proposed by:** Lake and Peninsula Borough

## **ACR NO. 14: INCREASE ALLOWABLE SET GILLNET LENGTH FOR NAKNEK RIVER SHA**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Inability of user groups to control escapement in the Naknek River Special Harvest Area (NRSHA). 50 to 100% more escapement than needed is occurring as of 7-17-07 escapement was 2,960,000.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE.** If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.

1) **Fishery conservation purpose or reason:** Not applicable.

or 2) **Correct an error in regulation:** See #3

or 3) **correct an unforeseen effect of a regulation:** The original allocation plan for user groups when fishing the NRSHA. This reduction directly contributes to the current problems controlling the escapement in the NRSHA.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This request deals with over-escapement and gear length. The allocation is not a factor as the NRSHA is currently on a 3 to 1 fishing ratio.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** N/A.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** Amend the amount of gear allowed to set netters be changed from 25 fathoms to 35 fathoms when fishing the NRSHA. Passage of this proposal would be consistent with action taken by the BOF on Proposal 391 in March of 2006.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Economic loss is occurring while set netters are struggling to stay in business.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Commercial fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** Not that I know of.

**Submitted by:** Donald Mack



## ADF&G STAFF COMMENTS ON ACR NO. 14

**PRESENT SITUATION:** When fishing in the NRSHA, set gillnet gear is limited to 25 fathoms.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to allow a set gillnet permit holder the option of fishing 35 fathoms of gear in the NRSHA.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

**1. Is there a pressing fishery conservation purpose or reason?** No, however recent escapements into the Naknek River have met or exceeded the current goals which may have an effect on future returns.

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

### **Additional Information:**

Year	Escapement
1999	1,625,364
2000	1,375,488
2001	1,830,360
2002	1,263,918
2003	1,831,170
2004	1,939,374
2005	2,744,622
2006	1,953,228
2007	2,945,304

The sockeye salmon SEG range for the Naknek River is 800,000 to 1,400,000 fish. However, when the NRSHA is open, an OEG is in place with an upper end of 2,000,000 sockeye salmon. The recent trend of large runs to the Naknek River has resulted in the upper end of the OEG being exceeded in two of the last three years despite nearly continuous fishing. This is a result of the fishery being restricted to the much reduced area of the NRSHA for the majority of those fishing seasons. Additional set gillnet gear may help to limit escapement in excess of the OEG.

The current allocation plan for the NRSHA is based on a ratio of fishing periods (three drift to one set gillnet period), rather than percent of harvest. Any additional harvest by the set gillnet fleet resulting from an increase in gear length could affect the overall allocation. However, the two gear groups do not fish simultaneously in the NRSHA and do not compete directly with each other.

At the October, 2005 BOF work session, ACR No. 3 was accepted, increasing drift gillnet gear in the NRSHA from 50 to 75 fathoms. ACR No. 3 was adopted at the March 2006 BOF meeting.

**Proposed by:** Donald Mack, set gillnet permit holder

## **ACR NO. 15: UPDATE DEFINITIONS TO INCLUDE DARK ROCKFISH (*S. CILIATUS*)**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.** The National Marine Fisheries Services (NMFS) is transferring management authority of dark rockfish (*S. ciliatus*) to the state of Alaska. Management control is expected by January of 2008 and the state does not have this species identified within its definitions.

If adopted this ACR will allow for the adoption of the currently recognized species designations and common names into the statewide definitions for the pelagic shelf rockfish group. The dusky rockfish (*S. ciliatus*) has been considered a single variable species with light and dark forms. These two forms have now been determined to be two separate species by Orr and Blackburn: Orr, James W. and JE Blackburn. 2004. The dusky rockfishes (Teleostei: Scorpaeniformes) of the North Pacific Ocean: resurrection of *Sebastes variabilis* (Pallas, 1814) and a redescription of *Sebastes ciliatus* (Tilesius, 1813).

*Sebastes ciliatus* was formerly defined as the Dusky rockfish. The common name is now Dark rockfish. The common name Dusky rockfish is now applied to a newly recognized species *Sebastes variabilis*.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

1) **Fishery conservation purpose or reason:** Not applicable.

or 2) **Correct an error in regulation:** No.

or 3) **correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** This ACR is a request to bring state regulations into conformity with the species managed by the state of Alaska.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** The provisions of 5 AAC 39.999(a) do not directly apply; rather 5 AAC 39.999(b) is applicable: Policy for changing board agenda. (b) The board will, in its discretion, change its schedule for consideration of proposed regulatory changes as reasonably necessary for coordination of state regulatory actions with federal fishery agencies, programs, or laws.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 39.975. Definitions.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The state will be given management of this species beginning January 2008. Statewide groundfish is not on cycle for another three years.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Management.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. No.**

**Submitted by:** Alaska Department of Fish and Game

## ADF&G STAFF COMMENTS ON ACR NO. 15

**PRESENT SITUATION:** Beginning January 2009, ADF&G is scheduled to assume full management authority for dark rockfish *Sebastes ciliatus* from the federal government in the exclusive economic zone (3–200 nmi offshore). The National Marine Fisheries Service (NMFS) is removing dark rockfish from the Bering Sea/Aleutian Islands and Gulf of Alaska Groundfish Fishery Management Plans because dark rockfish are mainly a nearshore species; most of the resource occurs in state waters.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This agenda change will modify the statewide definition for the pelagic shelf rockfish group (5 AAC 39.975(37)) to coordinate with a federal action as provided for in 5 AAC 39.999(b). Specifically, change the common name for *S. ciliatus* from dusky to dark rockfish. In addition, a new species will be added to the statewide definitions of the pelagic shelf rockfish group, *S. variabilis*, commonly known as dusky rockfish.

### STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. Is there a pressing fishery conservation purpose or reason? No.
2. Does the agenda change request correct an error in regulation? No.
3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? Yes.

The department was unaware during the last statewide fish board meeting that NMFS would remove dark rockfish from their management plan.

**Additional Information:** The next statewide finfish BOF meeting is scheduled for the 2009/2010 regulatory cycle, after the state assumes management authority for dark rockfish. Under the federal management system all species of rockfish in the pelagic shelf rockfish group are managed in aggregate, which could lead to conservation issues for a single species in the complex. Since most of the dark rockfish resource is in state waters ADF&G would be able to respond to conservation issues for this species on shorter notice, in smaller geographic areas than the federal government.

This proposal will adopt the currently recognized species designations and common names into the statewide definitions for the pelagic shelf rockfish group. The dusky rockfish (*S. ciliatus*) has been considered a single variable species with light and dark forms. These two forms have now been determined to be two separate species by Orr and Blackburn<sup>1</sup>. *Sebastes ciliatus* was formerly defined as the dusky rockfish. The common name is now dark rockfish. The common name dusky rockfish is now applied to a newly recognized species *Sebastes variabilis*.

**Proposed by:** Department of Fish and Game

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<sup>1</sup> Orr, J. W. and J. E. Blackburn. 2004. The dusky rockfishes (Teleostei: Scorpaeniformes) of the North Pacific Ocean: resurrection of *Sebastes variabilis* (Pallas, 1814) and a redescription of *Sebastes ciliatus* (Tilesius, 1813). Fisheries Bulletin 102:328–348.

## **ACR NO. 16: CLARIFY WESTERN BOUNDARY OF UGASHIK DISTRICT**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.** At the December 2006 Board of Fisheries meeting in Dillingham the board decided to adopt proposal 112. At committee the board decided that the intent of the proposal was to remove a small triangle of area from the northern part of the Ugashik District. This proposal was adopted with the new northwest corner to be determined at a later time. The northwest point used for the 2006 season accidentally moved the West line towards the East and shrunk the district more than the proposal intended.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** This ACR is just a housekeeping measure intended to make the west line of the Ugashik District coincide with the previous line before 2006.

**or 3) correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This is a small change in the W. line. Allocation is already handled by the allocation plan in effect and should not be affected by the change.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 06.200(d) and 5 AAC 06.357. The new northwest corner of the main Ugashik District should be 57° 43.540' north by 157° 43.805' west. And the northwest corner of the Ugashik Special Harvest Area should be 57° 43.540' N by 157° 43.249' west.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The current point used for the northwest corner is not where the proposal writer or the board intended for it to go. This is an easy correction that brings the west line back to its original position.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** I am a Bristol Bay Driftnet fisherman and Vice President of the Bristol Bay Driftnetters Association.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** It has not.

**Submitted by:** Warren Johnson, Bristol Bay Driftnetters Association

## **ADF&G STAFF COMMENTS ON ACR NO. 16**

**PRESENT SITUATION:** At the December 2006 BOF meeting in Dillingham, proposal 112 was adopted, changing the northern district boundary line for the Ugashik District. The board action eliminated a small triangular section in favor of a perpendicular line to shore along the lat 57°43'54"N line. This line would then intersect the current lines for the western boundary of the Ugashik District and the reduced Ugashik District western boundary (in effect when the Naknek and Egegik River special harvest areas are in use to protect Kvichak River stocks). An error was made in plotting the two points of intersection such that the western boundary was moved towards the coast reducing the area of the district, and the reduced district line was moved offshore increasing the area of the reduced district.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** The request is to restore the boundaries to their proper coordinates. This item is before the board because the incorrect boundaries were in place this season and an administrative solution is not possible.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? Yes.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? Yes.**

The effect of the current regulation is to shrink the full district and to enlarge the reduced district. If adopted, the ACR will restore the district boundaries to their correct places.

**Additional Information:** The department supports this ACR.

**Proposed by:** Warren Johnson, Bristol Bay Driftnetters Association

## **ACR NO. 17: MODIFY RATIO OF OPENINGS FOR SET GILLNET AND DRIFT GILLNET IN NAKNEK-KVICHAK DISTRICT**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Sockeye migrating to the Alagnak River have historically been harvested by both setnet and driftnet gear groups under the allocation plan at the rate of 16% set and 84% drift. Since 2006 the harvest rate was changed to equal openings for setnet and driftnet gear groups because the setnet gear groups felt that the river was too small for driftnet fishermen to work. As it turned out driftnet fishermen were at least as efficient at harvesting these sockeye as setnetters and deserve their historical percentage.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** The 1:1 ratio of openings is a very large deviation from historical percents in the Naknek - Kvichak District and should be brought back to their historical allocations.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** The sockeye harvested in the Alagnak River Special Harvest Area (ARSHA) are the exact same fish harvested in the Naknek - Kvichak District at a ratio of 16% setnet and 84% driftnet. The original argument that the Alagnak River was too small for driftnetters to function has proven to be false. Therefore we should apply historical catch rates to allocation in the entire Naknek - Kvichak District which includes the Alagnak River Special Harvest Area.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** The setnetters have shown little ability to control escapement to the ARSHA and have a history of harvesting 16% of these fish while transiting through the Naknek - Kvichak District. Staying with the opening ratio of 1:1 will have the effect of causing over escapement and damaging the driftnet fleet.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** I am a driftnet permit holder.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** I do not know.

**Submitted by:** Warren Johnson, Bristol Bay Driftnetters Association



## ADF&G STAFF COMMENTS ON ACR NO. 17

**PRESENT SITUATION:** When fishing in the Alagnak River Special Harvest Area (ARSHA), the allocation between gear groups requires alternating set and drift gillnet fishing for the first four fishing periods. If after four periods the harvest from either gear group is 50 percent less than that of the other gear group, alternating openings will no longer be required and fishing periods for the gear group with the greater harvest may be increased.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR seeks to change the allocation plan in the ARSHA to 84% for drift and 16% for set gillnet gear.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

### **Additional Information:**

Year	Escapement
2001	615,162
2002	766,962
2003	3,640,464
2004	5,388,498
2005	4,219,014
2006	1,773,966
2007	2,945,304

The actual lower bound SEG for the Alagnak River is 320,000 sockeye salmon with a desire to maintain an escapement level of 500,000 tower counts.

In 2005, the BOF created the ARSHA for set gillnet gear only. During that first season, 250,000 sockeye were harvested over an eight-day period. In 2006, the BOF adopted the current management and allocation plan.

During the 2006 season, the drift gillnet fleet fished the first two periods on July 7 and 8, with 12 deliveries for 10,000 sockeye salmon. The set gillnet fleet fished on July 8 and 9, with approximately 60 deliveries for roughly 30,000 sockeye. The set gillnet fleet fished an additional two periods, and then the Naknek/Kvichak District opened on July 10.

In 2007, the ARSHA opened to drift gillnet gear on July 2 and 3 with only two deliveries on July 3. The harvest from July 3 is confidential due to the number of deliveries. The set gillnet permit holders were allowed the next two tides, with 10 deliveries on July 4 for a harvest of 5,400 sockeye salmon.

**Proposed by:** Warren Johnson, Bristol Bay Driftnetters Association

## **ACR NO. 18: REINSTATE ORIGINAL COMPREHENSIVE ALLOCATION PLAN FOR THE NAKNEK RIVER SHA**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. In December of 2006 the Board of Fisheries removed the allocation plan percents from the Naknek River Special Harvest Area (NRSHA) and replaced them with mandated opening ratios. This had the effect of reallocating the catch of sockeye away from the driftnet fleet. The setnet harvest prior to the comprehensive allocation plan of 1998 was 11.66% of the entire sockeye harvest during the base years of 1977 to 1996. In 2007 it came in at 19%. The board of 1998 determined, after much study, that an allocation of 16% to the setnet gear group would be appropriate. This change has hurt driftnetters.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW.** If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

1) **Fishery conservation purpose or reason:** Not applicable.

or 2) **Correct an error in regulation:** Not applicable.

or 3) **correct an unforeseen effect of a regulation:** The authors of the proposals to change the allocation plan never said that their intent was to alter to harvest ratios inside the NRSHA. This regulatory change appears to be having the effect of altering historic allocation ratios.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** It is not allocative. This ACR requests that the original comprehensive allocation plan be reinstated for the NRSHA. That plan was working well. The escapements were under control and the allocation numbers were based mostly upon historical catches and were being achieved. Sockeye harvested in the NRSHA were counted in the base numbers used to create the comprehensive plan and are therefore accounted for in the comprehensive plan. The driftnet fleet has agreed to tax itself to pay for and improve the entire salmon fishery for all users. We need the board's help us to put allocation squabbles behind us so we can concentrate on the future this fishery.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** There is potential to harm the driftnet fleet during the next two years if the original comprehensive plan is not reinstated. We need for the best use of our time to be improving the fishery rather than working to change our allocation percents.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST** (e.g., commercial fisherman, subsistence user sport fisherman, etc.). I am a driftnet permit holder

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. No**

**Submitted by:** Warren Johnson, Bristol Bay Driftnetters Association

## **ADF&G STAFF COMMENTS ON ACR NO. 18**

**PRESENT SITUATION:** When fishing in the NRSHA the ratio of drift to set gillnet periods is three to one.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** The ACR is unclear and confusing as written. The author of the ACR “requests that the original comprehensive allocation plan be reinstated for the NRSHA” and makes repeated references to the 84% drift and 16% set gillnet allocation although the author states that this has hurt the drift gillnet fleet. The underlying problem appears to be the allocation ratio the BOF adopted during the December, 2006 meeting allowing the set gillnet group to fish one period for every three drift gillnet periods. The author does not state specifically what the ACR seeks to change but rather refers to the reinstatement of the original comprehensive allocation plan for the NRSHA. The original Naknek/Kvichak District allocation plan in 1997 did not apply to the NRSHA. The allocation plan for the NRSHA in 1998 when both gear groups were fishing was to fish the gear groups separately, alternating the periods between them. There were no specific harvest percentages until 2003, when the 84% drift to 16% set gillnet gear was adopted. This plan was in place during the 2004 through 2006 fishing seasons.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? No.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** The allocation formula for the NRSHA has changed three times since 1997. In 1997, the BOF allocated fish harvested in the Naknek/Kvichak District (excluding the NRSHA) at 84% for the drift gillnet fleet and 16% for the set gillnet gear group with set gillnet allocation split equally among the Naknek and Kvichak Sections (8% each). Prior to the 1998 season, when both gear groups were moved into the NRSHA they both fished at the same time. Between 1998 and 2003, when the Naknek/Kvichak District was closed to both gear groups, the drift gillnet and set gillnet fisheries alternated tides in the NRSHA. During the December, 2003 BOF meeting, proposals 57 and 59 sought to apply the 84% drift and 16% set gillnet allocation for the Naknek/Kvichak District to the NRSHA. That allocation plan was adopted. In 2006, eleven proposals were submitted dealing with the NRSHA allocation plan. Proposals included alternating tides, two drift for every one set gillnet period, three drift for every one set gillnet period, and 67% drift to 33% set gillnet. The BOF adopted a plan allowing three drift to one set gillnet period.

During the 2007 season, 15 drift and six set gillnet periods were fished in the NRSHA, with a final harvest allocation of 80% for drift and 20% for set gillnet.

Percentages			
Year	NRSA	Drift NRSA	Set Allocation plan
2001	74	26	alternate periods
2002	64	36	alternate periods
2003	65	35	alternate periods
2004	88	12	84% drift/16% set
2005	81	19	84% drift/16% set
2006	80	20	84% drift/16% set
2007	80	20	three drift to one set
Average	76	24	

Prior to 2001, the set gillnet fleet could remain out in the Naknek/Kvichak District while the drift gillnet fleet fished in the NRSA.

**Proposed by:** Warren Johnson, Bristol Bay Driftnetters Association.

**ACR NO. 19: MODIFY FISHING IN THE OUTER PORT  
HEIDEN SECTION TO INCREASE PASSAGE OF BRISTOL  
BAY STOCKS**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The Board of Fisheries in February 2007 decided to allow an expansion of fishing into the Outer Port Heiden Section. It is very likely that this change has resulted in the increased interception of Bristol Bay stocks which are already fully utilized. The original intent of Proposal 210 was to allow for creation of a terminal area that would likely have the effect of decreasing intercept especially of Kvichak and Ugashik stocks.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** This regulatory change from February 2007 likely had the effect of increasing intercept of Kvichak stocks during a time when Bristol Bay Fishermen were placed in decreased terminal areas to protect these same stocks. This was completely contrary to the intent of the proposal.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** The intent of this ACR is to allow for the increased passage of Bristol Bay stocks into the Bristol Bay rivers and streams. Terminalizing the fishery in the North Peninsula would likely make that fishery much more able to control escapement and avoid transiting stocks and stocks of concern. The idea that the North Peninsula needs the opposite management strategy from Bristol Bay is silly.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.**

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** It was merely luck that the Kvichak River came in late this season. The Bristol Bay fishermen did their part to curtail the catch of Kvichak stocks when the Kvichak showed weakness in the first half of the run, while the North Peninsula fishermen increased their catch area with no effort to curtail Kvichak intercept.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** I am a Bristol Bay fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No it has not.

**Submitted by:** Warren Johnson, Bristol Bay Driftnetters Association

## **ADF&G STAFF COMMENTS ON ACR NO. 19**

**PRESENT SITUATION:** That portion of the Outer Port Heiden Section southwest of a line at long 158°36'00"W may open to commercial salmon drift gillnet fishing on June 20 through July 31. The weekly fishing period is 6:00 a.m. Monday to 6:00 p.m. Wednesday (2.5 days per week). The section is managed based on the run strength of Meshik River sockeye salmon stocks. If that portion of the Egegik District as specified in 5 AAC 06.359(c) is closed for the conservation of Ugashik River sockeye salmon, then commercial fishing time or area in the Outer Port Heiden Section may be reduced (5 AAC 09.369(l)).

The Outer Port Heiden Section was opened to commercial salmon fishing by the BOF in February of 2007 to allow harvest of Meshik River bound sockeye salmon stocks for the first time since 1990. During 2007, the section was open to commercial salmon fishing 2.5 days per week between June 20 and July 31, for a total of 18 days. The season total commercial salmon harvest from the Outer Port Heiden Section was about 388,625 sockeye and 287 Chinook salmon. The escapement goal of 20,000 to 60,000 sockeye salmon in the Meshik River was met with 42,200 fish documented by aerial surveys. Aerial surveys also documented 2,750 Chinook salmon in the Meshik River, though no escapement goal for Chinook currently exists for this system. Red Bluff, Yellow Bluff, and Highland creeks are other important sockeye salmon producing streams that drain into Port Heiden Bay near the mouth of the Meshik River. In 2007, Red Bluff and Yellow Bluff creeks together had sockeye salmon escapements of 12,000 fish and Highland Creek had an escapement of 1,000 fish. These systems do not have escapement goals. The total sockeye salmon escapement for systems draining into Port Heiden in 2007 was 55,200 fish.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Close or reduce the commercial fishing time in the Outer Port Heiden Section.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

#### **1. Is there a pressing fishery conservation purpose or reason? No.**

Prior to 2007, the escapement goal for the Meshik River was 10,000 to 20,000 sockeye salmon. Escapements into the Meshik River from 2003 to 2006 ranged from 82,200 to 114,010 sockeye salmon and averaged 87,700 fish. The escapement goal for the Meshik River was increased to 20,000 to 60,000 sockeye salmon in 2007 based on a percentile method of historical run strength (15<sup>th</sup> and 75<sup>th</sup> percentiles using escapements from the years 1990 to 2005). This change may reflect increased salmon runs or the increased escapement estimates arrived at through improved monitoring of the system using aerial surveys since around 1990. In 2007, the escapement in the Meshik River was 42,200 sockeye salmon and within the escapement goal range. The Chinook salmon escapement into the Meshik River in 2007 was 2,750 fish. While there is no escapement goal for Chinook salmon in the Meshik River, the average escapement between 1997 and 2006 was 4,950 Chinook salmon and the escapement ranged from a low of 800 fish in 1999 to a high of 13,700 fish in 2005. There is no conservation concern for any salmon species monitored in the Meshik River system. There is a trigger in the North Alaska Peninsula management plan (5 AAC 09.369(l)) which states if the commissioner closes that portion of the Egegik District specified in 5 AAC 06.359(c) for the conservation of Ugashik River sockeye salmon stocks, additional restrictions may be implemented in the Outer Port Heiden Section. The same trigger has been



in effect for the Ilnik Section in the North Alaska Peninsula management plan since 1992 and in regulation since 1998 (5 AAC 09.369(j)(B)).

**2. Does the agenda change request correct an error in regulation?** No.

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**Additional Information:** The commercial fishing season in the Inner Port Heiden Section is from May 1 until September 30 with weekly fishing periods from 6:00 a.m. Monday until 6:00 p.m. Wednesday. Additional fishing time early in June has been granted when there is an interest expressed by local Area T permit holders with a market for Chinook salmon if the weekly fishing period is not sufficient. Inner Port Heiden is considered a terminal area and extensive fishing time is offered throughout the season as has been the case for many years to encourage fishers to harvest salmon in that area. Area M drift and set gillnet fishermen do not generally fish the Inner Port Heiden Section despite the liberal fishing time allowed, apparently due to the shallowness of the inner bay and strong currents in the area. Between 1998 and 2007, three Area M permit holders made a total of 10 deliveries from the Inner Port Heiden Section. The total harvest from these deliveries was 310 Chinook, 1,104 sockeye, and zero coho salmon. Between 1998 and 2007, 43 Area T permit holders made a total of 155 deliveries from the Inner Port Heiden Section. The total harvest from these deliveries was 2,935 Chinook, 4,180 sockeye, and 18,163 coho salmon.

Past tagging, migration, and genetic studies indicate that most Bristol Bay sockeye salmon are well offshore of North Peninsula fisheries. This is supported in recent years by the Port Moller test fishery which annually documents the Bristol Bay run migration, the bulk of which passes well outside of the Northern District. Scale pattern analysis in the past documented Bristol Bay sockeye salmon caught in the Ilnik Section. In 2006, ADF&G began the Western Alaska Salmon Stock Identification Program (WASSIP), which uses genetic markers to differentiate between stocks in commercial fishery samples collected throughout western Alaska. These samples may provide additional harvest information; however, these results are not yet available.

**Proposed by:** Warren Johnson, Bristol Bay Driftnetters Association

**ACR NO. 20: CLOSE FISHING IN THE OUTER PORT HEIDEN SECTION TO INCREASE PASSAGE OF BRISTOL BAY STOCKS**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Close the Outer Port Heiden Section as it was before 2007.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW.** If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

**1) Fishery conservation purpose or reason:** The Kvichak River and/or the Ugashik River will not achieve its minimum escapement goal in the future because of this increase of intercepting Bristol Bay fish.

**or 2) Correct an error in regulation:**

**or 3) correct an unforeseen effect of a regulation:** The effect of the board allowing fishing in the Outer Port Heiden Section starting June 20 is to allow the fishery to intercept migrating Bristol Bay salmon runs and overharvest them.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:**

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** The boards recent allowing of fishing time when the peak of the Bristol Bay run is migrating through the North Peninsula fishery has more than doubled the intercept of Bristol Bay fish.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 09.369

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** To keep the North Peninsula fishery from overharvesting Kvichak River and or Ugashik River sockeye stocks as soon as next year the board should hear this immediately.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST** (e.g., commercial fisherman, subsistence user sport fisherman, etc.). I am a Bristol Bay fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.**

**Submitted by:** Kurt Johnson

## **ADF&G STAFF COMMENTS ON ACR NO. 20**

**PRESENT SITUATION:** That portion of the Outer Port Heiden Section southwest of a line at long 158°36'00"W may open to commercial salmon drift gillnet fishing on June 20 through July 31. The weekly fishing period is 6:00 a.m. Monday to 6:00 p.m. Wednesday (2 1/2 days per week). The section is managed based on the run strength of Meshik River sockeye salmon stocks. If that portion of the Egegik District as specified in 5 AAC 06.359(c) is closed for the conservation of Ugashik River sockeye salmon, then commercial fishing time or area in the Outer Port Heiden Section may be reduced (5 AAC 09.369(l)).

The Outer Port Heiden Section was opened to commercial salmon fishing by the BOF in February of 2007 to allow harvest of Meshik River bound sockeye salmon stocks for the first time since 1990. During 2007, the section was open to commercial salmon fishing 2 1/2 days per week between June 20 and July 31, for a total of 18 days. The season total commercial salmon harvest from the Outer Port Heiden Section was about 388,625 sockeye and 287 Chinook salmon. The escapement goal of 20,000 to 60,000 sockeye salmon in the Meshik River was met with 42,200 fish documented by aerial surveys. Aerial surveys also documented 2,750 Chinook salmon in the Meshik River, though no escapement goal for Chinook currently exists for this system. Red Bluff, Yellow Bluff, and Highland creeks are other important sockeye salmon producing streams that drain into Port Heiden near the mouth of the Meshik River. In 2007, Red Bluff and Yellow Bluff creeks together had sockeye salmon escapements of 12,000 fish and Highland Creek had an escapement of 1,000 fish. These systems do not have escapement goals. The total sockeye salmon escapement for systems draining into Port Heiden in 2007 was 55,200 fish.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Close the Outer Port Heiden Section.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

#### **1. Is there a pressing fishery conservation purpose or reason? No.**

Prior to 2007, the escapement goal for the Meshik River was 10,000 to 20,000 sockeye salmon. Escapements into the Meshik River from 2003 to 2006 ranged from 82,200 to 114,010 sockeye salmon and averaged 87,700 fish. The escapement goal for the Meshik River was increased to 20,000 to 60,000 sockeye salmon in 2007 based on a percentile method of historical run strength (15<sup>th</sup> and 75<sup>th</sup> percentiles using escapements from the years 1990-2005). This change may reflect increased salmon runs or the increased escapement estimates arrived at through improved monitoring of the system using aerial surveys since around 1990. In 2007, the escapement in the Meshik River was 42,200 sockeye salmon and within the escapement goal range. The Chinook salmon escapement into the Meshik River in 2007 was 2,750 fish. While there is no escapement goal for Chinook salmon in the Meshik River, the average escapement between 1997 and 2006 was 4,950 Chinook salmon and the escapement ranged from a low of 800 fish in 1999 to a high of 13,700 fish in 2005. ADF&G sees no conservation concern for any salmon species monitored in the Meshik River system. There is a trigger in the North Alaska Peninsula management plan (5 AAC 09.369(l)) which states if the commissioner closes that portion of the Egegik District specified in 5 AAC 06.359(c) for the conservation of Ugashik River sockeye salmon stocks, additional restrictions may be implemented in the Outer Port Heiden Section. The same trigger has been in effect for the Ilnik Section in the North Alaska Peninsula management plan since 1992 and in regulation since 1998 (5 AAC 09.369(j)(B)).

**2. Does the agenda change request correct an error in regulation? No.**

**3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** Initial harvest reports from fish tickets from the 2007 season show a total harvest of 388,625 sockeye salmon taken in the Outer Port Heiden Section and 1,715,548 sockeye salmon from the Ilnik Section during this same period (June 20 through July 31).

Past tagging, migration, and genetic studies indicate that most Bristol Bay sockeye salmon are well offshore of North Peninsula fisheries. This is supported in recent years by the Port Moller test fishery which annually documents the Bristol Bay run migration, the bulk of which passes well outside of the Northern District. Scale pattern analysis in the past documented Bristol Bay sockeye salmon caught in the Ilnik Section. In 2006, ADF&G began the Western Alaska Salmon Stock Identification Program (WASSIP), which uses genetic markers to differentiate between stocks in commercial fishery samples collected throughout western Alaska. These samples may provide additional harvest information; however, these results are not yet available.

**Proposed by:** Kurt Johnson

**ACR NO. 21: REINSTATE 100,000 SOCKEYE SALMON CAP AND MAXIMUM 24 HOUR FISHING RESTRICTION IN THE NORTH PENINSULA**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. For the North Peninsula Management Plan reinstate the 100,000 sockeye salmon cap, and reinstate the maximum 24 hours continuous fishing followed by at least 24 hour closure guideline.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW.** If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.

**1) Fishery conservation purpose or reason:** The Kvichak River and/or the Ugashik River will not achieve its minimum escapement goal in the future because the North Peninsula Management Plan does not restrain the interception and possible over-harvesting of Bristol Bay runs.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** The effect of the board removing the restrictions on the North Peninsula fishery starting June 20 is to allow the fishery to intercept individual migrating Bristol Bay salmon runs and over-harvest them without restraint.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.**

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** The boards recent allowing of uncontrolled fishing time when the peak of the Bristol Bay run is migrating through the North Peninsula fishery has greatly expanded this intercept fishery. This past season beginning June 20 the fishermen fished southwest of Unangashak Bluffs continuously and were allowed to fish closer to Bristol Bay (to Stogonof Point or in Outer Port Heiden) more than half the time.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 09.369

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** To keep the North Peninsula fishery from over-harvesting Kvichak River and or Ugashik River sockeye stocks as soon as next year the board should hear this immediately.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** I am a Bristol Bay fisherman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.**

**Submitted by:** Kurt Johnson

## **ADF&G STAFF COMMENTS ON ACR NO. 21**

**PRESENT SITUATION:** In February 2007, the BOF changed regulations in the Ilnik Section (5 AAC 09.369 (j)). The change permits fishing in that portion of the Ilnik Section outside of Ilnik Lagoon beginning June 20. That portion of the Ilnik Section outside of the Ilnik Lagoon and southwest of Unangashak Bluffs are managed based on Ilnik River sockeye salmon run strength through July 20 unless a management concern exists for Ugashik River sockeye salmon (5 AAC 09.369 (j)(1)(B)). The portion of the Ilnik Section northeast of Unangashak Bluffs to Strogonof Point is managed based on Meshik River sockeye salmon run strength unless a management concern exists for Ilnik or Ugashik River sockeye salmon. Aerial surveys are used to determine escapement into the Meshik River. Between July 20 and August 15, fishing time in the entire Ilnik Section is based on Bear River sockeye salmon run strength. After August 15, local coho salmon run strength and catch per unit effort (CPUE) are used to determine fishing time in the Ilnik Section unless a concern exists for Bear River late-run sockeye salmon.

The management plan changes enacted by the 2007 BOF were based on high escapement levels into the Ilnik and Meshik rivers. Between 2004 and 2006, the sockeye salmon escapement into the Ilnik River has averaged 108,000 fish and was well above the escapement goal of 40,000 to 60,000 while the Meshik River has averaged 119,800 sockeye salmon escapement between 2004 and 2006 and was well above the goal of 10,000 to 20,000 fish in place at the time. The escapement goal for the Meshik River was increased to 20,000 to 60,000 sockeye salmon in 2007 based on a percentile method of historical run strength (15<sup>th</sup> and 75<sup>th</sup> percentiles using escapements from the years 1990 to 2005). In 2004, 2.5 days of fishing per week was permitted northeast of Unangashak Bluffs to Strogonof Point. During 2005 and 2006, the number of fishing days permitted was increased to a maximum of 4.5 days per week. Processor harvest limits during 2004 and 2005 may have caused the increased salmon escapement of many North Alaska Peninsula river systems. In 2005, processor harvest limits were in effect for 2.5 weeks. During 2007, fishing was allowed in the Ilnik Section northeast of Unangashak Bluffs to Strogonof Point beginning on June 20, and was adjusted thereafter depending on escapement levels at the Meshik and Ilnik rivers. Fishing was allowed 4.5 days per week in that portion of the Ilnik Section northeast of Unangashak Bluffs between June 20 and July 31.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Seeks to reinstate the management plan for the Ilnik Section in place prior to 2003.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? No.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** There is a trigger in the Northern District salmon fisheries management plan (5 AAC 09.369(l)) which states if the commissioner closes that portion of the Egegik District specified in 5 AAC 06.359(c) for the conservation of Ugashik River sockeye salmon stocks, then additional restrictions may be implemented in the Outer Port Heiden Section. The same trigger has been in effect for the Ilnik Section in the North Alaska Peninsula management plan since 1992 and in regulation since 1998 (5 AAC 09.369(j)(B)).

**Proposed by:** Kurt Johnson

## **ACR NO. 22: REVISE MANAGEMENT PLAN FOR SOUTHEASTERN DISTRICT MAINLAND**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.** Under the current Southeastern District Mainland, here after referred to as S.E.D.M., management plan adopted in 1984 Chignik fishermen are guaranteed 600,000 fish harvest or a portion of if escapement levels are being met before Area M fishermen are allowed to harvest in this management area. When this management plan was implemented, the Chignik fishery was at full participation, but since the inception of the co-op plan participation has steadily declined to the low levels of 2007. This current year the plan caused foregone opportunity to the Area M fishermen who fish the S.E.D.M. The Chignik fleet participation is currently at a maximum of fifty percent of available permits. This affects their neighbors to the West because of the 600,000 fish trigger. By reason, if Chignik participation is fifty percent then the achievement of the 600,000 comes late or never before management of S.E.D.M. turns to local pink and chum stocks. This year the first opening to Area M fishermen in S.E.D.M. in June or July never came. With the current financial condition of the salmon fishery, it is my opinion the fifty percent or lower rate of participation will only continue for years to come, thus Area M will continue to lose opportunity in June and July.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** At the time regulation was made the Chignik fleet was at 100% participation. In 2007 was less than 50%.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:**

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** The S.E.D.M. of Area M is allocated 7% of the Chignik catch. Participation in the Chignik area is now less than ½ of historical participation, slowing the catch rate of fish.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 09.360

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Area M fishermen will continue to lose harvest opportunities in June and July. Area M will not come before BOF during the regular cycle for 2 more years.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Commercial fisherman, Area M; and Sand Point AC Chairman.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. No.**

**Submitted by:** John Foster



## **ADF&G STAFF COMMENTS ON ACR NO. 22**

**PRESENT SITUATION:** Currently the Southeastern District Mainland (SEDM) management plan is allocatively tied to the Chignik Management Area (CMA) through sockeye salmon harvests from June 1 through July 25. In years when either of the CMA's first and/or second sockeye salmon runs fail to develop as expected, the SEDM is managed so that the CMA can obtain a harvest of 300,000 sockeye salmon through July 8 or 600,000 sockeye salmon through July 25. From July 26 through September 30, management of the SEDM is based on the strength of local pink, chum, and coho salmon stocks.

The Northwest Stepovak Section located within the SEDM is managed from June 1 through June 30 based on Chignik and SEDM sockeye salmon allocation criteria. From July 1 through July 25, this section is managed on the strength of local sockeye salmon returning to Orzinski Lake.

In years when the Chignik harvest criteria is not achieved and the sockeye salmon run into Orzinski Lake is below escapement requirements, the SEDM may remain closed for the entire allocation time frame, through at least July 25.

Deliveries of commercially harvested salmon were attributed to 55 (55%) of the 100 commercial salmon fishing permits available for the CMA in 2007.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This agenda change request seeks to modify the Chignik Management Area's sockeye salmon harvest criteria, as specified in the Southeastern District Mainland management plan 5 AAC 09.360.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason? No.**
- 2. Does the agenda change request correct an error in regulation? No.**
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted? No.**

**Additional Information:** The SEDM management plan was before the BOF most recently in February 2007, at which time the only plan modification was removing any influence of the Cape Igvak fishery (Kodiak Management Area) sockeye salmon harvest from the SEDM plan. During the 2007 commercial salmon fishing season, preliminary harvest information indicates that 599,889 sockeye salmon were harvested the CMA during the allocation period (June 1 through July 25) and that the Chignik early-run (June 1 through July 4) sockeye salmon harvest of 210,126 was the lowest on record. Preliminary escapement information suggests that the Orzinski Lake sockeye salmon return failed to reach the minimum escapement goal. Given the SEDM management plan criteria, the sockeye salmon run strengths in the CMA and Orzinski, and the late run timing of SEDM pink, chum, and coho salmon, the first commercial salmon fishing period in the SEDM occurred on August 1.

**Proposed by:** John Foster

## **ACR NO. 23: MODIFY FISHING IN THE OUTER PORT HEIDEN SECTION TO ADDRESS SUBSISTENCE NEEDS**

**STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues.** The subsistence fishery at Port Heiden has been severely impacted by commercial fisheries under regulations amended by Proposal 210 at the February 2007 meeting of the Board of Fisheries. The amended regulation modified the management plan as follows: The Outer Port Heiden Section [IS CLOSED TO] commercial fishing **will be permitted southwest of 158° 36' W. long. based on the abundance of Meshik River sockeye salmon' except that if the commissioner closes that portion of the Egegik District specific in 5 AAC 06.359(c) for the conservation of Ugashik River sockeye salmon stocks, the commissioner may establish additional fishing restrictions;...**"

Despite the fact the subsistence fishing efforts were the same as in past years, no one in the village was able to get their subsistence fish needs met by subsistence fishing. There is a single site for residents to put out their subsistence net and they take turns using the site to supply their individual/family subsistence needs. This absolutely vital single subsistence site is located such that, because of the new regulation passed by the Board of Fisheries, the Area M drift netters can, and do, set their nets directly in front of the village subsistence net (e.g. as close as 100 feet). The new regulations have resulted in the subsistence fishery of the village of Port Heiden being completely cut off.

No subsistence fishermen in Port Heiden were able to get their subsistence fish from traditional subsistence fishing. Of the three households who managed to get fish for subsistence needs, two received fish from Area M fishers who had fish that they did not have a market for (e.g. over processor daily limit), and, the third family received their subsistence fish from traditional sharing/trading between native villages – in this case, Chignik.

In the past Port Heiden was heavily dependent on subsistence hunting caribou but conservation closures have shut them out so that in recent years, they are vitally dependent on subsistence fishing.

The boards decision either needs to be reversed or the time and area needs to be changed to allow a reasonable opportunity for Port Heiden residents to harvest subsistence salmon.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW. If any one or more of the three criteria set forth below is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** No proposal addressed this specific regulatory change. It was not discussed as an option during committee meeting. The board did not discuss the potential impact on the subsistence fishery at Port Heiden during its deliberation. Because this regulatory change was not addressed until final deliberations, public comment from Port Heiden was not allowed.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE:** This agenda change request is allocative. The management change was highly allocative. It allocated the subsistence fish from Port Heiden that residents depended upon, their subsistence salmon resource, away to the commercial fishermen of the North Peninsula drift fleet. To correct this unintended consequence involves allocative action.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** We now have one salmon season behind us under the amended regulation. It was not the intent of the board to harm subsistence fishing opportunity at Port Heiden. The new information shows that Port Heiden subsistence fishermen no longer have a reasonable opportunity to harvest their subsistence fish.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.**

5 AAC 09.350(3) – closed waters

5 AAC 09.310(a)(2)(B) – fishing season

5 ACC 09.320(a)(3) – fishing periods

5 ACC 09.330(a)(10) – gear types

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** Subsistence fishing has priority over commercial fishing yet the subsistence needs of Port Heiden and alteration of the fishing patterns were not addressed at the Board of Fisheries meeting. Port Heiden is a community which has always been profoundly dependent on subsistence hunting and fishing. In recent decades subsistence hunting for caribou has been reduced to zero. To take away the subsistence fishery at Port Heiden without regard to that impact and then ask “why can’t you wait three years to have meaningful access to subsistence fish again?” would be outrageous.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.).** Lake and Peninsula Borough residents in the City of Port Heiden and the president of the Port Heiden Village council requested the borough submit this ACR on their behalf.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No.

**Submitted by:** Jeff Currier, Borough Manager, Lake and Peninsula Borough

## **ADF&G STAFF COMMENT ON ACR NO. 23**

**PRESENT SITUATION:** By regulation, that portion of the Outer Port Heiden Section southwest of a line at long 158°36'00"W may open to commercial salmon drift gillnet fishing on June 20 and closes on July 31. The weekly fishing period is 6:00 a.m. Monday to 6:00 p.m. Wednesday (2.5 days per week). The section is managed based on the run strength of Meshik River sockeye salmon stocks. If that portion of the Egegik District as specified in 5 AAC 06.359(c) is closed for the conservation of Ugashik River sockeye salmon, then commercial fishing time or area in the Outer Port Heiden Section may be reduced (5 AAC 09.369(l)).

The Outer Port Heiden Section was opened to commercial salmon fishing by the BOF in February of 2007 to allow harvest of Meshik River bound sockeye salmon stocks for the first time since 1990. During 2007, the section was open to commercial salmon fishing 2.5 days per week between June 20 and July 31, or a total of 18 days. The season total commercial salmon harvest from the Outer Port Heiden Section was about 388,625 sockeye and 287 Chinook salmon. The escapement goal of 20,000 to 60,000 sockeye salmon in the Meshik River was met with 42,200 fish documented by aerial surveys. Aerial surveys also documented 2,750 Chinook salmon in the Meshik River, though no escapement goal for Chinook currently exists for this system. Red Bluff, Yellow Bluff, and Highland creeks are other important sockeye salmon producing streams that drain into Port Heiden near the mouth of the Meshik River. In 2007, Red Bluff and Yellow Bluff creeks together had sockeye salmon escapements of 12,000 fish and Highland Creek had an escapement of 1,000 fish. These systems do not have escapement goals. The total sockeye salmon escapement for systems draining into Port Heiden in 2007 was 55,200 fish.

Residents of the community of Port Heiden participate in a set gillnet subsistence fishery in the Inner Port Heiden Section. The board made a positive customary and traditional use determination for the salmon stocks in the Alaska Peninsula Area and established 34,000 to 56,000 salmon as the ANS (5 AAC 01.416), but has not made a more specific ANS finding solely for the Inner Port Heiden Section.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** Close or reduce the commercial fishing time in the Outer Port Heiden Section.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly.

The department believes that the intended effect of the regulation was fulfilled. As the board intended, escapements to the Meshik River fell within the escapement goal range. Moreover, the total sockeye escapement of 55,200 fish was at the upper end of the range, allowing for ample subsistence opportunity (estimated escapement in 2004 was 40,000 and in 2005 was 65,000). The subsistence fishery was open continuously, 7 days per week, 24 hours per day; while the commercial fishery was open 2.5 days per week from June 20 through July 31 as stated in regulation. However, the community of Port Heiden and the Lake and Peninsula Borough have raised concerns that the changes to commercial fishery management with the 2007 regulations in the Outer Port Heiden Section resulted in reduced subsistence salmon harvests by Port Heiden

residents in the 2007 fishing season. The board may want to review available data for the 2007 commercial and subsistence fisheries to determine whether an unforeseen effect has occurred and resulted in an inadequate opportunity for subsistence uses (AS 16.05.258(b)).

**Additional Information:** Over the most recent 10 years, on average, the State of Alaska issued three subsistence permits from Port Heiden area residents per year. Four subsistence permits were issued in 1997, three permits every year between 1998 and 2005, and two permits in 2006. The average total harvest per year between 1997 and 2006 was 40 Chinook and 100 sockeye salmon. This amounts to 13 Chinook and 33 sockeye salmon per permit holder per year. More residents of Port Heiden use subsistence salmon resources than is reported to the department; as people share the use of nets and share catches. Permit reports are considered a minimum estimate of harvest and participation; and are not expanded to estimate harvest by other participating households.

In early September 2007, department staff conducted interviews with 21 of the 26 Port Heiden households to gather background information on the subsistence salmon fishery. Most of the households participated in subsistence salmon fishing either harvesting or processing salmon. Several people reported longer fishing times were required in order to obtain fish compared to previous years; and significantly reduced catches as a result. Preliminary results of the survey found that of the 21 households interviewed, 14 fished for salmon in 2007 with a reported subsistence set gillnet harvest of 120 sockeye and 50 Chinook salmon. Only one of these households had a subsistence permit, reporting a harvest of 30 sockeye and 1 Chinook. In the survey, these same households reported a subsistence set gillnet harvest of 768 sockeye salmon and 135 Chinook salmon for 2006.

A meeting was held on September 6, 2007 with 12 community residents attending to hear the department's season summary reports, and to engage in a dialogue with department staff about local residents concerns about the fishery and fishery management this past season. A detailed report of findings will be prepared if the Board adopts the agenda change request and schedules the topic for a future meeting.

**Proposed by:** Jeff Currier, Borough Manager, Lake and Peninsula Borough

**ACR NO. 24: HAVE STATE HALIBUT REGULATIONS  
MIRROR FEDERAL REGULATIONS FOR CONSISTENCY  
WITH THE NORTH PACIFIC HALIBUT ACT AND  
INTERNATIONAL TREATY**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. Halibut are managed under an international treaty and the North Pacific Halibut Act. As a result the state has very limited regulatory authority over halibut. State halibut regulations that are not identical to federal regulations are considered preempted by federal law. The National Marine Fisheries Service, under direction of the North Pacific Management Council, recently changed regulations for people sport fishing from charter boats in southeast Alaska and are considering changes in south central Alaska. As a result, the state halibut sport fishing regulations are inconsistent with federal regulations in southeast Alaska. This causes significant enforcement issues and results in confusion amongst anglers due to conflicting and invalid state regulations. Given the possibility of future changes, the state could find that our regulations are out of sync with federal regulations in some areas at any time. To correct this, the department proposes to have state sport fishing regulations for halibut mirror federal regulations. This approach closely mirrors that of commercial fisheries which are dually managed. *See 5 AAC 28.092.*

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.** The provisions of 5 AAC 39.999(a) do not directly apply; rather 5 AAC 39.999(b) is applicable: Policy for changing board agenda. (b) The board will, in its discretion, change its schedule for consideration of proposed regulatory changes as reasonably necessary for coordination of state regulatory actions with federal fishery agencies, programs, or laws.

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Possibly.

**or 3) correct an unforeseen effect of a regulation:** Not applicable.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** Not applicable.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** If this ACR is accepted and passed it would require a new regulation.

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** At this time some state halibut sport fishing regulations are out of compliance with federal regulations and the department does not know when or how often in the future the federal government may change halibut regulations.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Dual management.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** This is a new issue.

**Submitted by:** Alaska Department of Fish and Game

## **ADF&G STAFF COMMENTS ON ACR NO. 24**

**PRESENT SITUATION:** Halibut are managed under an international treaty and the North Pacific Halibut Act. As a result the state has very limited regulatory authority over halibut. State halibut regulations that are not identical to federal regulations are considered preempted by federal law. The National Marine Fisheries Service, under direction of the North Pacific Management Council, recently changed regulations for people sport fishing from charter boats in southeast Alaska and are considering changes in Southcentral Alaska. As a result, the state halibut sport fishing regulations are inconsistent with federal regulations in southeast Alaska. This causes significant enforcement issues and results in confusion amongst anglers due to conflicting and invalid state regulations. Given the possibility of future changes, the state could find that our regulations are out of sync with federal regulations in some areas at any time. To correct this, the department proposes to have state sport fishing regulations for halibut mirror federal regulations. This approach closely mirrors that of commercial fisheries which are also dually managed. See 5 AAC 28.092.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This ACR requests the board to adopt a regulation similar to the existing commercial fishing regulation (5 AAC 28.092) which would make it illegal for any person to take or possess halibut in a manner inconsistent with the regulations of the International Pacific Halibut Commission or the National Marine Fisheries Service. This regulation would keep state regulations consistent with federal regulations.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** Probably. Any time federal regulations for halibut taken by chartered sport anglers change state regulations will be inconsistent until such time as the board modifies the state regulations.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

**Additional Information:** None.

**Proposed by:** Alaska Department of Fish and Game



## **ACR NO. 25: ALLOW USE OF PROXIES FOR SUBSISTENCE, SPORT, AND PERSONAL USE SHELLFISH FISHERIES**

**STATE IN DETAIL THE NATURE OF THE PROBLEM:** Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. During the 06-07 statewide meeting the board amended the finfish proxy fishing regulations in the subsistence, sport and personal use fisheries. However, due to legal notice issues only proxy fishing regulations for finfish could be changed. Given that there is proxy fishing for shellfish this agenda change request is necessary to eliminate the confusion of having two different proxy reporting requirements and regulations that apply only to finfish.

**STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATE ABOVE. If any one or more of the three criteria set forth above is not applicable, state that it is not applicable.**

**1) Fishery conservation purpose or reason:** Not applicable.

**or 2) Correct an error in regulation:** Not applicable.

**or 3) correct an unforeseen effect of a regulation:** At the time of the board's adoption of the amendments to the proxy regulations it was understood that the department would submit an agenda change request to include all shellfish species thereby allowing the new regulatory requirements to be applicable to both finfish and shellfish.

**STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE.** Not applicable.

**IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.** Not applicable.

**CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD.** 5 AAC 75.011. Sport fishing by proxy and 5 AAC 77.016. Personal use fishing by proxy would be amended by including "shellfish" in subsections (i) and (j) of these regulations. 5 AAC 02.011. Subsistence fishing by proxy would be amended by adding new subsections (i) and (j).

**STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE.** This year's regulatory cycle only includes king and Tanner crab and it will be another cycle before miscellaneous shellfish is on the agenda which would create a two year window with conflicting reporting requirements on a proxy form and regulations.

**STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user, sport fisherman, etc.).** Management.

**STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING.** No.

**Submitted by:** Alaska Department of Fish and Game

## **ADF&G STAFF COMMENTS ON ACR NO. 25**

**PRESENT SITUATION:** During the March 2007 statewide finfish meeting the board amended the finfish proxy fishing regulations in the subsistence, sport and personal use fisheries. However, due to legal notice issues only proxy regulations for finfish could be adopted. Given that there is also proxy fishing for shellfish in the same fisheries this agenda change request is necessary to eliminate the confusion of having two different proxy reporting requirements and regulations that apply only to finfish.

**WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE:** This agenda change request asks the board to adopt identical reporting regulations for shellfish taken under the proxy fishing program to the finfish reporting regulations the board adopted in March.

### **STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:**

- 1. Is there a pressing fishery conservation purpose or reason?** No.
- 2. Does the agenda change request correct an error in regulation?** No.
- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes. When the board adopted the proxy reporting regulations for finfish it was understood that the department would submit an agenda change request to include all shellfish species thereby allowing the new regulatory requirements to be applicable to both finfish and shellfish.

**Additional Information:** None.

**Proposed by:** Alaska Department of Fish and Game

