




## MEMORANDUM

TO: John Jensen, Chair  
Alaska Board of Fisheries

DATE: May 4, 2017

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

PHONE: 907-465-6141

SUBJECT: Emergency petition regarding Copper River commercial fishery

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Pursuant to AS 16.05.270, the Alaska Board of Fisheries (board) delegated authority to the commissioner of the Alaska Department of Fish and Game (department), under board policy 2015-277-FB, to determine whether emergency petitions submitted to the board outside of the regular board cycle constitute emergencies under 5 AAC 96.625(f).

This letter provides my decision as commissioner of the Alaska Department of Fish and Game as to the existence of an emergency with respect to the emergency petition from the Fairbanks Fish and Game Advisory Committee, dated April 5, 2017.

### Action Requested

The Fairbanks Fish and Game Advisory Committee petition requested that the board require the department to prepare and publish an additional emergency order detailing commercial fishery management actions to be taken to achieve the king salmon sustainable escapement goal (SEG) for the Copper River in 2017.

Absent a detailed plan requested above, the Fairbanks Fish and Game Advisory Committee requests the board consider requiring the department to 1) utilize genetic source information as soon as it can be made available to assess the strength of the return of the king salmon from the Gulkana River from at least the first two commercial openings; 2) further restrict areas open for the commercial fishery; 3) reduce the depth of drift gillnets to 29 meshes; 4) close the fishery until July 1 if commercial harvest exceeds the forecast objective and assessments confirm a low return; 5) prohibit the sale of commercially caught king salmon and forfeit those caught incidentally to the State of Alaska; 6) prohibit the retention of king salmon in "home pack"; 7) institute measures to lower the mortality from handling and releasing king salmon in all the non-retention fisheries; and 8) exempt the Chitina dip net personal use fishery from the allocation reduction in 5 AAC 77.591(f).

### Background

The department, with direction from the board, manages salmon runs to the Copper River District to assure sustained yield and meet all user group allocations, under 5 AAC 24.360, *Copper River District Salmon Management Plan*, and also manages Copper River king salmon stocks under 5

AAC 24.361, *Copper River King Salmon Management Plan*. In 2003, the king salmon SEG was set at 24,000 or more fish. Salmon in the Copper River are counted by the Miles Lake sonar, located ~30 miles upstream from the commercial fishing district. The Miles Lake sonar project does not apportion salmon by species and there is no inseason king salmon escapement assessment. The vast majority of salmon passing that site are sockeye salmon which have a 10-year average (2007–2016) total return of 2.6 million fish compared to an average total return of 54,000 king salmon during that same time period. Annual king salmon abundance is estimated by a mark–recapture project operated by the Native Village of Eyak but is only available post season. The department operates a counting tower on the Gulkana River that provides an index of that component of the Copper River king salmon population.

At the December 2011 board meeting, the *Copper River King Salmon Management Plan* was amended to limit the number of commercial openings inside of the barrier islands (inside closures) to no more than one 12-hour fishing period during statistical weeks 20 and 21 to increase the probability of achieving the king salmon SEG. The standard commercial fishing schedule for the Copper River is two evenly-spaced fishing periods per week, beginning in mid-May, with the first period each week starting at 7:00 a.m. on Monday. Fishing effort, harvest, and Miles Lake sonar sockeye salmon escapement trends guide a decision on the time and area of a possible second weekly fishing period, typically scheduled for 7:00 a.m. on Thursdays. The Copper River fishery is a directed sockeye salmon commercial fishery with incidental harvest of king salmon. Thus the number of fishing periods per week and duration are primarily designed for sockeye salmon management (achieving the sockeye salmon SEG of 360,000–750,000 fish) and inside closures are for king salmon management.

The 2017 Copper River king salmon total run forecast is 29,000 fish (range 3,000 – 55,000 fish) based on the 2016 run which was the smallest since 1980. The low forecast for 2017 is not unexpected given the size of the 2016 run, and because similar to other king salmon stocks in the state, for several years Copper River king salmon appear to have been in a cycle of reduced productivity. The total return has dropped by 30% in recent years with a 2006-2011 average total return of 61,800 fish down to a 2012-2016 average total return of 41,600 fish. While total king salmon run size has declined in recent years, king salmon escapements have met the SEG in 7 of the last 10 years (2007-2016 average escapement 30,000 fish). However, the SEG was not met in 2016 with an escapement estimate of 11,900 fish. The 5-year (2012-2016) average king salmon harvests are all below the long-term average and consist of 13,130 commercial fish, 2,500 subsistence fish (state and federal), 850 personal use fish, and 850 sport harvest fish. These lower-than-average harvests are a result of the recent smaller king salmon runs and restrictive actions by the department in the commercial, personal use, and sport fisheries to reduce king salmon harvests in most of those years. Provided the 2017 Copper River king salmon run returns as forecast, the department intends to manage the fishery to provide reasonable opportunity for subsistence uses of salmon, and will restrict commercial opportunity and eliminate harvests of king salmon in the inriver sport and personal use fisheries, all in order to achieve the SEG.

### **Finding of Emergency**

The Joint Board Petition Policy 5 AAC 96.625(f) that the board uses to respond to emergency petitions states that an emergency petition “will be denied and not scheduled for a hearing unless

the problem outlined in the petition justifies a finding of emergency.” The policy defines “emergency” as:

an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.

### **Discussion**

In recent years the department has restricted all Copper River non-subsistence salmon fisheries using its emergency order authority to reduce harvest and opportunity due to lower Copper River king salmon returns. In 2017, the department intends to continue and implement additional restrictions on king salmon harvests in the upriver sport, personal use, and subsistence fisheries. In the commercial salmon fishery, the department intends to continue and implement additional restrictions in 2017, with an expanded inside waters closure area and reduced commercial fishing time compared to recent years. In addition to a low king salmon forecast, the 2017 Copper River sockeye salmon run forecast is below average and fishing period duration will likely be reduced as necessary to ensure the sockeye salmon SEG is met. Based on anticipated low king salmon abundance, the “inside closure area,” as defined in 5AAC 24.350(1)(B), is anticipated to be closed for all fishing periods until late-June. This time period covers the entire king salmon run timing and is a longer duration closure than in past years. There is evidence that king salmon are more vulnerable to harvest in shallow waters of this inside closure area. The inside closure area will be expanded to include waters inside barrier islands east of Softuk Bar. This area has been periodically closed in the past and will now also be closed until late-June. Additionally, waters inside barrier islands from Grass Island to the western edge of the district will be included in the inside closure area. This area has never been closed before. A further option of closing waters immediately offshore of the barrier islands has also been discussed as an additional tool to reduce commercial king salmon harvest. Beyond complete closure of the expanded inside waters area, the department will only provide a single 12-hour fishing period during the first week of the fishery. Reduced fishing time and area is also anticipated during the following weeks of the fishery.

The low forecast for the Copper River commercial fishery is not an unforeseen or unexpected event because of the local and state-wide trend of decreased king salmon productivity in recent years. The department’s proposed management strategy for 2017 is also not unexpected. The department regularly relies on its emergency order authority, when circumstances require, to open or close seasons or areas in order to ensure that king and sockeye salmon escapement goals are met. As noted, the department has regularly used its emergency order authority in the Copper River salmon fishery in recent years to respond to low king salmon abundance, and in 2017 the department intends to continue those protective measures and implement additional measures. Restrictions to the Copper River commercial fishery have been proactive to address the anticipated poor returns associated with the statewide cycle of low king salmon productivity, and the department intends to continue this strategy in 2017. The department does not expect the 2017 king salmon run forecast and anticipated low level of king salmon harvest to affect the long-term sustainability of Copper River king salmon stocks. The department retains adequate tools with the existing management plans and the department’s emergency order authority to manage the Copper River king salmon stock in 2017 to meet the SEG.

Based on the information available to me I cannot conclude that an emergency under 5 AAC 96.625(f) exists. Accordingly, I deny the emergency petition pursuant to AS 46.62.230.

cc: Glenn Haight, Executive Director, Alaska Board of Fisheries  
Scott Kelley, Director, Division of Commercial Fisheries  
Tom Brookover, Director, Division of Sport Fisheries  
Seth Beausang, Assistant Attorney General, Department of Law  
Chair, Fairbanks Fish and Game Advisory Committee