

March 11, 2023

Alaska Board of Fisheries

P.O. Box 115526

Juneau, Alaska 99811-5524

Attn: Executive Director / Art Nelson

Chairperson / Carlson-Van Dort / Members of the Board of Fisheries

**Re: 5 AAC 96.625 Joint board petition policy**

**Emergency Petition**

*Chairperson Carlson – Van Dort,*

*Members of the Alaska Board Of Fisheries*

The South K-Beach Independent Fishermen's Association (SOKI) is an ad-hoc community group who primarily harvest sockeye by set gillnetting in the Kasilof Section of the Central District of Cook Inlet.

We request the Board to take immediate emergency actions to address the ramifications of;

**Upper Cook Inlet Commercial Fishing Announcement No. 1, Emergency Order number 2S-1-23**

Selected Statutes and Administrative Codes applicable to this petition:

**AS 44.62.250 Emergency regulations(a)** ...a regulation or order of repeal may be adopted as an emergency regulation or order of repeal if a state agency makes a written finding, including a statement of the facts that constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the public peace, health, safety, or general welfare.

**AS 44.62.260 Limitation on the effective period of emergency regulations (a)** ...a regulation adopted as an emergency regulation does not remain in effect more than 120 days...

**5 AAC 96.625 Joint board petition policy. (f)**

...It is the policy of the boards that a petition will be denied and not scheduled for a hearing unless the problem outlined in the petition justifies a finding of emergency under AS 44.62.270, ...

...an emergency is 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. ...

**5 AAC 39.223 Policy for statewide salmon escapement goals****(b) (4)**

establish sustained escapement thresholds (SET) as provided in 5AAC 39.222 (Policy for the Management of Sustained Salmon Fisheries);

**(c) (2)**

...an estimate of expected differences in yield of any salmon stock, relative to maximum sustained yield, resulting from implementation of an OEG.

Relevant reports and information supporting an emergency finding;

**2022 Upper Cook Inlet Commercial Salmon Fishery Season Summary ESSN Chinook Fishery (section)**

...The midpoint of the run occurred on July 27 which is on the mean historical midpoint. The OEG of 15,000 – 30,000 large fish was not achieved and the SEG of 13,500 – 27,000 large fish was achieved in 2022. The SEG has been achieved in three of the last six years. The lower bound of the OEG has not been achieved since establishment in 2020. ...The ESSN fishery harvested 341 Chinook salmon and was 89% less than the recent 10-year average harvest of 3,202 fish. The Chinook salmon harvested in the ESSN fishery included a preliminary estimated 32 fish that were large Kenai River late-run origin fish.

***Emergency Action Requested:***

*We request the Alaska Board of Fisheries to address this petition at this March 2023 Statewide regulatory meeting prior to adjourning. We respectfully request that the board adopt these changes into regulation.*

**5 AAC 21.359 Kenai River Late-Run King Salmon Management Plan (b) *The Department shall manage the late run of Kenai River king salmon to achieve [an optimal escapement goal of 15,000 – 30,000] a sustainable escapement goal of 13,500 – 27,000 king salmon 75 cm mid eye to tail fork and longer as described in this section.***

**(h) ...*The provisions of (e)(3)(A) –(C) of this section [apply] do not apply to the provisions of the Kasilof River Management Plan contained in 5AAC 21.365(f) that pertain to the Kasilof River Special Harvest Area.***

***Justifications:***

We understand the authority of the board to establish a ‘policy’ to address situations that come before the board. We would add that ‘policy’ is not regulatory language and while important to offer ‘guidance’ to future boards, they are not ‘bound’ by the past practices and always maintain the authority to modify or re-define the language of a policy at any time or out of necessity.

It should be noted that the East Side Set Net (ESSN) fishery has been declared or in the process of a Federal Disaster claim process in 2012, 2018, 2020, 2022. Which is four times in 11 years. With the current regulatory language in place, the 2023 would most likely be considered a 5<sup>th</sup> Disaster in 12 years. They are considered economic disasters for the most part.

The Kenai River Late-Run King Salmon (KRLRKS) has not been declared a Stock of Concern nor has the run of large kings been unable to replace themselves in this time period. The confusion of historic versus

current assessments is a direct result of the conversion from the 'all king goal' to a 'large king goal'. Current data has indicated an overall size and age class shift for many discreet stocks of Chinook in the waters of the Pacific Ocean. Stocks have diminished in size significantly and it is our belief that this has changed the 'static' enumeration process at the sonar counter in the Kenai River.

Members of the board were not privileged to have access to the discussions and data presented at the 2000 Upper Cook Inlet (UCI) regulatory meeting when the OEG was introduced. Step down restrictions also modified the Kasilof River Sockeye management plan. Clearly, even members who were present could not have anticipated the current ramifications to management goals that have transpired since adoption. Members were informed of the potential loss of harvest of sockeye to the fishery but there was no possible way to document the magnitude of this loss or a complete closure of the ESSN fishery approximately 4 months before the regulatory start of the season. The projections of sockeye returns for the 2023 Kenai and Kasilof Rivers are very similar to the previous year (2022). Fall hydro acoustic and trawl surveys of sockeye fry in Skilak Lake (2022) have indicated a dramatic decline in size and densities between age classes. This report has not been completed because of ADF&G staffing issues.

SOKI in conclusion is only requesting that the Board of Fisheries reevaluate the management plans to determine if they are still applicable and if modifications are necessary to avert continued irreparable harm to the commercial fishing industry within UCI. In the normal cycle of review 2023 would have been within the scheduled review process.

We believe that this was an 'unforeseeable' set of events that will result in 'irreparable' harm to the general welfare of the communities within Cook Inlet.

In essence, we are requesting a 'fair hearing' on this emergency petition to determine if there are 'fair and reasonable' solutions that would avoid 'precluding access' to a harvestable resource of sockeye bound for the Kenai and Kasilof Rivers of UCI. To manage within the goals of all returning salmon.

Thank you,

Christine L. Brandt

Spokesperson / SOKI

