

MEMORANDUM

STATE OF ALASKA

Department of Law

To: Glenn Haight
Executive Director
Alaska Board of Fisheries

Date: September __, 2013

File No.:

Tel. No.: 269-5232

From: Mike Mitchell
Lance Nelson
Senior Assistant Attorneys General
Natural Resources Section,
Anchorage, Civil Division

Subject: **Comments on Agenda Change
Requests for 2013-14 Cycle,
October 2013 Board of
Fisheries Work Session**

The Department of Law has the following comments on the agenda change requests (ACR's) to be considered by the Board of Fisheries (Board) at its work session on October 9-11, 2012. We have not commented on whether ACRs appear to meet the criteria for accepting ACRs under 5 AAC 39.999(a)(1).

ACR 7. ACR 7 proposes to define and allow a lead for commercial fish wheel gear. The proponent says that the Department of Law has determined that a commercial fish wheel cannot have a lead because it is not in regulation. This is a correct statement of our views on the matter. "Fish wheel" is defined in 5 AAC 39.105(d)(9) (types of legal gear) as "a fixed, rotating device, with no more than four baskets on a single axle, for catching fish which is driven by river current or other means," and the Yukon Area regulation for fish wheel specifications and operations cited by the proponent, 5 AAC 05.333, does not provide for the use of leads.¹ "Lead" is also defined in 5 AAC 39.105(d)(18) as "a length of net employed for guiding fish into a seine or set gillnet," with no mention of fish wheels. We note that the use of leads while subsistence fishing is authorized by 5 AAC 01.010(a)(4), which provides that "a lead which is a length of net employed for guiding fish into a seine, or a length of net or fencing employed for guiding fish into a fish wheel, fyke net, or dip net." We also note in some areas leads are allowed

¹ 5 AAC 05.333 provides:

Fish wheel baskets must be stopped from rotating in the water during periods closed to commercial and subsistence fishing. The fish wheel registrant is responsible for the operation of the fish wheel.

to be used when commercial fishing with seines and gillnets.²

² *See, e.g.*, 5 AAC 09.332 (Alaska Peninsula seine specifications and operations); 5 AAC 11.334 and .335 (Atka-Amlia Islands gillnet and seine specifications and operations); 5 AAC 15.332 (Chignik seine specifications and operations); 5 AAC 18.332 (Kodiak seine specifications and operations); 5 AAC 24.332 (Prince William Sound seine specifications and operations); 5 AAC 33.332 (Southeast seine specifications and operations); 5 AAC 39.260(e)-(k) (general seine specifications and operations, describing use of seine leads where authorized).