

RC 12

To: Alaska Board of Fisheries
Meeting January 31, 2014 to February 13, 2014
Subject: Upper Cook Inlet Finfish

Comment on proposal 233 - 5 AAC 57.121 seeking to prohibit sport fishing within the Soldotna Centennial Campground boat launch lagoon.

From: Val James Allen
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Dear Sirs:

As an introduction I feel it is important to explain why I, an Alaskan resident and avid fisherman, am commenting of this proposal. This proposal by the City of Soldotna is a direct result of the actions I have taken over the past year in order to end the illegal prohibition placed on the fishermen using the Kenai River in the area of the Centennial Campground by the City of Soldotna. I have written State officials and received confirmation that all the Kenai River is navigable water and that only the State has the authority to set policy concerning its use. The City of Soldotna was also so informed by the State AF&G. Through the many communications between me and city officials they have acknowledged that they cannot prohibit fishing from any place in the river and yet they still maintain that the signs prohibiting fishing, and the implied threat contained therein are valid and legal. This proposal is an attempt by the City of Soldotna to have the State of Alaska validate their illegal ordinance and allow them to continue their blatant discrimination in favor of one user group over another. This will not do.

As you can see by the first paragraph of their proposal, they request that you sustain their illegal city ordinance which prohibits the legal fishing of the Kenai River in an area that they have artificially and arbitrarily designated as a lagoon. What they don't include is the entire ordinance which ends with *"A violation of this regulation shall be punishable by a fine of \$100"*.

For the past two years, 2012-2013 this ordinance has been used by the City to intimidate and threaten the legal fishermen who wished to use the Kenai River near the boat launch ramps in Centennial Campground. Hundreds of fishermen have been driven from this area by campground personnel using the threat of fine or arrest. On September 5, 2012 they forced a wheelchair bound paraplegic fisherman to leave this area under threat of arrest. I know this to be true because he is my dear friend Richard Beardall from Utah and I was in attendance when this immoral act was perpetrated.

The discrimination shown by the City in favor of the boaters over another user group, the fishermen, is evident in both their application of their illegal ordinance and their arguments in this proposal. They suggest that they will acquiesce in your decision only if you agree and close this area from July 1 to August 31. This smacks of blatant discrimination against bank fishermen and an assumption that they have a right to discriminate against users. Nothing could be further

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from the truth. Alaska State Statutes are clear and precise. The Kenai River is navigable water and all of it is subject to the application of the "Public Trust" doctrine.

The City states that the issue is "dangerous safety and social situations". This is utter nonsense. They suggest that all fishermen who fish this area are in constant conflict with the boaters using the river entry. I have fished this area for the past 12 years and nearly every day during the summer. I have yet to see anyone shot, killed or injured by actions of the bank fishermen. The City is grossly exaggerating this situation so that they can pass responsibility for any negative action on to the fishermen rather than force the boaters to be as responsible for their actions as any user group. They state in their one and only example that a careless boater ran over a fisherman standing on the boat ramp and it was the fisherman's fault. Hooie! Might the boater look backwards and be responsible for where he backs his boat? Common decency, consideration and good sense can, and has in the past, prevented most accidental situations where one might get hurt. As for the social situations, I do not believe that the Board of Fisheries is responsible for people's interactions with each other.

They state, under the heading **WHAT WILL HAPPEN IF NOTHING IS DONE**, that eventually a serious injury will happen and that altercations/conflicts will continue. In 12 years of fishing the Kenai River in this area I have yet to see a single minor injury or major altercation. I am unaware of the Board of Fisheries mandate to referee disagreements and prevent any possibility of injury.

Under the heading **WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** The City states that the user groups experience will be improved. That is not the question although they are wrong anyway. The resource will not be harvested and there will be no products produced. The fishermen's experience will not be improved as they will be treated as second class users and unworthy of consideration. They will be forced to not fish one of the finest fishing holes on the Kenai River. This area contains one of the finest fishing holes on the Kenai River and especially during the pink runs, a nearly unlimited amount of excellent fishing for both pinks and silvers. I have, prior to the City's prohibition, watched thousands of fishermen enjoy the great bounty of the Kenai at this location and I have not yet seen a single injury or conflict.

The City clearly states under the heading **WHO IS LIKELY TO BENEFIT?** that the Boaters will certainly benefit. Free and unlimited access without consideration of other user groups is a perk that they are willing to grant. The fishermen will not nor have they benefited from this prohibition. Being driven from the river and threatened, benefits no one. The City certainly can exaggerate about "navigating the irregular current within the limited navigational pathway" when in fact, there is no irregular current and there is not a limited pathway into the river from the boat ramps other than the common river condition. Apparently this area is "an attractive nuisance where unforeseen dangers exist" and we fishermen will have a better experience if we don't fish. After all, the creature of the boat launch lagoon may rise up and eat us all.

Under the heading **WHO IS LIKELY TO SUFFER?** the City suggests that no one will. This

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is complete poppycock. The hundreds of fishermen who have been forced out of this area of the Kenai River by actions of the City have already suffered the humiliation and intimidate fostered by the City and this action will continue until the City ceases this dishonest behavior. No one? Hardly. It seems that the City considers legal fishermen as no one.

The City of Soldotna's proposal is a blatant attempt to exaggerate conditions which do not exist in order to discriminate against bank fishermen in favor of the boat launchers. Who are these boat launchers who are so threatened by the fishermen? Could it be the river guides? Could it be that they do not want to wait, pause, or even consider anyone else who might be using the river? Could it be that the situations that result from multiple use of this resource are common to all areas where there are multiple users?

In summation I would state that the ultimate question to be answered is whether or not the Board Of Fisheries, in violation of the "Public Trust", will allow the City of Soldotna to set fishing policy over a large swath of the Kenai River. I think not. The ramifications of such an acquiescence is terrifying. Every town, city, municipality or land owner who has boat ramps can assume that they have the legal right to designate any area of Alaska's great rivers as no fishing zones. That, in any form, is unacceptable.

I thank you for your consideration and look forward to your rejection of this proposal. I would ask that in such rejection you would notify the City of Soldotna that they must remove all signage from this area of the Kenai River and that they must cease and desist from harassing and threatening the Alaskan fisherman.