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Modify commercial salmon set gillnet fishery in the Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 21.359 Kenai River Late-Run King Salmon Management Plan.

On July 24, 2021, SOKI submitted an emergency petition that was placed on the Board of Fisheries agenda on a teleconferenced meeting held on August 02, 2021. The petition was not discussed as it was tabled referring to the action taken on a preceding petition. SOKI received a letter from the Department of Fish and Game dated August 10, 2021, which stated, "...require a full closure of the set net fishery if in-river fishing on late-run Kenai River king salmon was closed ...". The board: "...took no action on your petition which was effectively a denial."

SOKI believes that both regulations are incongruent and requests the board to review and discuss on record the intent of these regulations on current escapement goals.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE

IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

SOKI will be re-submitting a copy of the emergency petition as an RC. Individual points are presented here from the submission and may be used for references on this ACR.

Current escapement estimates (08.23.21); Kenai River sockeye - 2.250 million/ 200% over the SEG, Kasilof River sockeye - 550k/293% over the BEG, Kenai Late-Run king - 12,448/ 92% of the SEG (a total return of 49,792 with an enumeration rate of 25% of kings >34 " or 75 cm METF)

We remain concerned that the Kasilof River continues to be managed to exceed the BEG and OEG of sockeye.

The Kasilof River Salmon Management Plan (KRSMP) specifies that the use of the plan to achieve conservation goals for "king salmon escapement goals" by the provisions in the Kasilof River Special Harvest Area (KRSMA) directs managers to "reduce in duration", "mandatory closures" to "meet escapement goals" and "other management plans". The new language in the Kenai River Late-Run King Salmon Management Plan (KRLRKSMP) allows exemptions in the KRSMA but implies hourly restrictions and a mandated window. This is a contradiction in directives and would further hinder the final opportunity to maintain escapements within the goal and further restrict the

commissioner from his statute authority to “achieve escapement goals for the management plans as the primary management objective”. The Biological Escapement Goal (BEG) is the primary mandate in the Kasilof unless the Kenai River Late-Run Sockeye has not projected to achieve its minimum in-river escapement.

The KRLRKSMMP demands, “close the commercial set gillnet fishery in Upper Subdistrict” and ignores all other management plans or tools that would limit efficiencies in the fishery. We believe that this again is a contradiction under the long-standing guidelines established within the Upper Cook Inlet Salmon Management Plan (UCISMP). The king plan defines “intent” to “ensure an Upper Cook Inlet (6)

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adequate escapement” but nowhere is there a definition of this term in SSFP. The Department is constitutionally tasked with achieving “sustainable” goals as their primary objective.

WHAT SOLUTION DO YOU PREFER?

Specifically, we are requesting that the Alaska Board of Fisheries (BOF) give clarity and direction to the Alaska Department of Fish and Game (ADF&G) through the Commissioners authority to make in-season changes utilizing his Emergency Orders (EO) powers to implement the provisions referred to in the Kasilof River Salmon Management Plan (KRSMP) and the Kasilof River Special Harvest Area (KRSHA) when projections of the Kenai Late-Run kings are projected to have a “final escapement” under an OEG of 15,000.

We ask the Board to clarify the legal definition of the KRSHA. The Department has always historically been advised by past DNR legal advisors to the Board that the Terminal Harvest areas of the Central and Northern Districts are normally closed waters as defined in “Closed waters” in regulation. The KRSHA has listed coordinates that specify the boundaries and unlike the “Fishing districts, subdistricts and sections” the Upper Subdistricts defines open waters as to where the gillnet fisheries can operate in as “open waters”. This area is separate an apart from all other fisheries in Cook Inlet in that when opened by EO only, this area is not restricted by setnet area

registration and is considered open to any CFEC setnet permit holder in the SO4H area. Therefore, not an “exclusive” East Side Set Net (ESSN) prescribed fishery. Not subject to closures under 5 AAC 21.359.

We would encourage the board to discuss intent language that would give direction to the Alaska Department of Fish and Game and to the Commissioner to utilize the Kasilof Section more aggressively to maintain the Kasilof River sockeye escapements within the Biological Escapement Goals as established by the Department and codified by the Board. Action taken in 2020 by the Board amended the plan to provide for an earlier opening date of June 20th when 30,000 sockeye are projected. The Department makes their pre-season projections and restricts the Kasilof Section accordingly. The Department then makes an “in-season” assessment on or around July 14-17 (quarter point). It is SOKI’s request that within this time frame that all allowable hours be utilized including the immediate + time frame after the Friday 36-hour window to maximize the harvest of sockeye.

In the event of a less than achievable Kenai Late-Run Kenai king escapement goal after the determination date other step-down provisions that restrict time, area, method and means as prescribed within current Kasilof River Management plans would be implemented.

Specifically;

- 1) Immediately, open the set gillnet fishery within the ½ mile area within the Kasilof Section of the Central District for 36 hours per week regular fishing periods; days, and dates to be determined by the Department until August 15th.
- 2) Immediately, open the set gillnet fishery in the 600 ft area of the Kasilof Section for 12 hour or more weekly fishing periods until August 15th.
- 3) Immediately, by emergency authority, open the closed area in the Cook Inlet set gillnet fishery in the KRSHA (Terminal Area) for fishing periods until August 15, 2021.

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STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason: YES. The requested actions are for the “controlled utilization of the resources”. Maintain salmon stocks within the recommended escapement goals per the 5AAC 39.222 Policy for the Management of SSF.

to correct an error in regulation: YES. Current regulations did not address escapement goals of these magnitudes or the negative effects to the resource stakeholders or to the local and Alaskan economy. Contradictions in escapement goals between management plans create confusion amongst traditional harvesters and fisheries managers.

to correct an effect on a fishery that was unforeseen when a regulation was adopted: YES. In 2020 and again in 2021 the trend to exceed the goals have been excessive. The 2020 Upper Cook Inlet Regulatory meeting did not present information on the expected size of escapements. In fact, the Department and Board discussed adopting revised salmon escapement goals which established minimum and maximum ranges. The board and the public did not have an adequate opportunity to comment on projections of these proportions.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

New developments implemented by the NPFMC and the Department of Fish & Game resulting with the exclusion of Area 1 for the 2022 drift fishery in Cook Inlet may cause a serious concern by fisheries managers to maintain stocks within their prospective escapement goals.

Continued economic damage to the existing and historical individuals and businesses may become irreparable.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

We do not believe that this is predominately allocative as each of the returns are abundant and there is no specific need to restrict access or opportunity amongst or within user groups. However, ESSN fishers have been restricted from access to their traditional harvest and have no opportunity

to harvest “alternative” stocks that are abundantly available to other individuals or user groups.

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

With our explanation we do not feel that this is a substantially allocative proposal although some may revel in the systematic destruction of the ESSN fishery.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

The South K-Beach Independent Fishermen’s Association (SOKI) is an ad-hoc community group who commercial set gillnet in the Kasilof Section of the Central District of Cook Inlet.

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

The basis for this ACR was from an emergency petition submitted by SOKI 07.24.21.

SUBMITTED BY: South K-Beach Independent Fishermen’s Association (SOKI)